98th Congress
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SENATE

REPORT
No. 98-84

FEDERAL IDENTIFICATION FRAUD

REPORT

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OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

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Mr. ROTH, from the Committee on Governmental Affairs, submitted the following

REPORT

I. INTRODUCTION

In August 1981 the Senate Permanent Subcommittee on Investigations (PSI) commenced an examination of the use of false federally-issued identification documents in federal benefit programs. The primary focus of the Subcommittee's review was threefold: first, to examine the procedures that federal agencies use to issue identification documents; second, to review the forensic security of the documents, and third, to examine the use of these documents in establishing identity and eligibility for federal benefit programs. The review by the Subcommittee identified numerous abuses in all three areas, leading to the conclusion that there have been few effective efforts by those federal agencies which produce and rely upon these documents to isolate and eliminate document-related fraud. These findings were the subject of PSI hearings held on June 15 and 16 and September 23, 1982, presided over by Senator William V. Roth, Jr., Chairman of the Subcommittee.

This report sets forth the evidence obtained during the course of the Subcommittee's investigation. The primary federal identification documents are identified and analyzed and their weaknesses, as well as the weaknesses in the procedures utilized to issue the documents, are explored. This report examines various fraudulent schemes where a false federal identification was a significant factor. The report concludes with recommendations which are intended to improve the security of the documents, the procedures used to issue them, and their ultimate use in federal benefit programs.

A. OVERVIEW: WHO'S WHO IN THE IDENTIFICATION GAME

It is difficult to get a handle on the problem of false identification *per se* and probably impossible to analyze the fallout effect of false identification on government entitlement programs. First, a variety of different federal agencies issue identification documents for specific

purposes relevant to the programs of a specific agency. However, in many instances, the issuing agency will rely upon the documents issued by another federal agency. For example, the Immigration and Naturalization Service (INS) is responsible for the domestic enforcement of immigration laws.[1] However, in issuing immigration documnetations, INS very often will rely upon visas issued by the Department of State. This relationship would seemingly require close cooperation between these agencies. Similarly, the Social Security Administration (SSA) issues social security cards and numbers to eligible aliens, based in part upon INS documents presented by the applicant. Despite this need for close cooperation and information sharing, the Subcommittee found little evidence of it. A key factor in the public hearings thus became the question of why agencies do not share identity information. Moreover, developing and issuing identification documents, these issuing agencies have been historically preoccupied only with their own immediate needs, not with the subsequent reliance by other agencies on the documents.

While there has been little meaningful cooperation and information sharing among the document-issuing agencies, there has been virtually no cooperation between these agencies and the federal benefit agencies, such as the food stamp program of the Department of Agriculture. The benefit agencies often require the applicant to prove identity and eligibility. In many instances, certain federal identification documents are considered sufficient proof of identity and/or eligibility.[2] For the most part these documents are chosen by the benefit agency without any prior coordination with the issuing agency, and are accepted by the benefit agency without any mechanism to verify the legitimacy of the documents with the issuing agency.[3] Chairman Roth observed, "there does not appear to be a general awareness by federal agencies as to the pervasiveness of the problem".[4]

This lack of cooperation and communication between the issuing agencies creates an atmosphere whereby a relatively unsophisticated criminal can present false, inadequate or misleading data to an identification-issuing agency and receive a legitimate identification document. The creation of a false identity by deception is well known to the criminal community. Publications are commercially available which contain precise instructions on how to create a fictitious identity and receive legitimate government documents to verify this identity.[5]

A second problem arises from the fact that most federal identification documents are susceptible to counterfeiting or alteration. The Subcommittee examined the U.S. passport, the non-immigrant visa, the INS forms I–151 (green card), I–551 (ADIT card), and I–94 arrival and departure record, and the social security card.[6] Each of these documents has unique features, but all can be copied with a minimal amount of forensic skill.

This fact was clearly demonstrated in the testimony of Newton Van Drunen. Van Drunen, a convicted documents forger, is serving

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[1] 8 U.S.C. § 1103.
[2] See e.g., 7 CFR 273.2(f)(ii)(c) re: food stamps; 20 CFR § 16.205 re: Supplemental Security Income.
[3] "Federal Identification Fraud", Hearings before PSI, June 15 and 16, 1982, p. 49 (hereinafter referred to as "Hearing").
[4] Hearing, p. 2.
[5] "The Paper Trip I", Eden Press, Fountain Valley, California, 1971.
[6] See Part IIA for a full description of these documents.

a ten-year sentence in federal prison for counterfeiting and conspiracy offenses. He began his career in 1956 as an alien smuggler and provider of false documents to illegal Mexican immigrants. He was convicted in 1973 for alien smuggling and was incarcerated in Sandstone Federal Prison in Minnesota. While in Sandstone he learned the mechanics of the printing industry by working in the print shop. He also learned about various INS plans to print a new secure alien identification card, the ADIT card, because INS had many of its internal information documents concerning the card printed at the prison print shop. Upon his release from prison, Van Drunen entered into the counterfeiting business.[7]

From 1976 until 1981, Van Drunen continued to operate an illegal counterfeiting business where he successfully counterfeited various federal and state documents.[8]

His testimony at the hearing demonstrated that with inexpensive equipment and little formal skill most federal identification documents could be successfully copied. In response to a question by Senator Warren Rudman, Van Drunen estimated that his total cost in material and equipment was under $6,000.[9] An entire package of false documents, including a social security card, a birth certificate, a baptismal certificate and a selective service card would be sold for $75.00.[10] The INS ADIT card would be sold to a wholesaler for $60.00 and to the ultimate customer for $120.00.[11] Van Drunen estimated that he produced over 100,000 false documents, yet he had only a 2–6 percent share of the market for false documents in the Chicago area.[12]

The impact of Van Drunnen's counterfeiting was also made clear in this exchange:

> Senator COHEN. The fact of the matter is, through activities such as yours, (you) have made it easier for people to cheat the U.S. taxpayers.
>
> Mr. VAN DRUNEN. Very definitely.
>
> Senator COHEN. Millions of dollars.
>
> Mr. VAN DRUNEN. Millions of dollars.[13]

B. IMPACT OF FALSE IDENTIFICATION FRAUD ON FEDERAL BENEFIT PROGRAMS

Once the problem of false identification had been identified, the Subcommittee decided to examine its impact on benefit programs. At the outset, it should be noted that false identification has a broad impact on a variety of federal, state and local programs relating to immigration, social policy, and public assistance. Additionally, false identification has a major impact on the administration of state motor vehicle laws as well as on banking, credit, retail and other commercial establishments.[14] Furthermore, the use of false documents is a well

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[7] Hearings, p. 14–15.
[8] See Exhibit 2, Hearing, p. 27–45.
[9] Hearing, p. 20.
[10] Hearing, p. 15.
[11] Hearing, p. 17.
[12] Hearing, p. 18.
[13] Hearing, p. 24.
[14] "The Criminal Use of False Identification", The Report of the Federal Advisory Committee on False Identification, November 1976, United States Department of Justice.

known modus operandi of all types of criminals including fugitives,[15] terrorists, and drug smugglers who seek to create a new identity to avoid detection by law enforcement. But the Subcommittee chose to look specifically at the impact of false identification on those federal programs where an applicant might use a fake or fraudulently-issued identity document to obtain a federal benefit.

The Subcommittee's review found that many federal benefit programs require an applicant to prove identity and eligibility. In order to establish these facts, agency rules and operating instructions specify what state and federal documents are accepted. Usually these documents are chosen without any previous consultation with the issuing federal or state agency concerning the intended purposes of the document. Furthermore, little if any effort is made to establish a channel of communication with the issuing agency to share information about false or questionable identification documentation.

For example, the Department of Agriculture's implementing regulations in the food stamp program specifically allow an applicant to establish eligibility by presenting an appropriately stamped INS form I–94.[16] As will be discussed in this report, INS created the I–94 as a record of entry and departure and not as an identity document. There are no secure features in the document and it is easily compromised.

Although the I–94's weaknesses are and have been well known to INS, there was no coordination between INS and the Department of Agriculture when the document was chosen by the Department as an acceptable document to prove identity and eligibility for food stamps. And although the Department of Agriculture had accepted the document for years as an identity document, no one at INS was informed of this until the Subcommittee commenced its investigation of the matter.[17]

The selection of an outrageously insecure identity document is merely an example of the greater overall problem—the failure of the federal benefit agencies and the identification-issuing agencies to share information about their programs in order to identify and eliminate unlawful participants.

In a recent audit of the food stamp program in Florida, the Department of Agriculture's Office of Inspector General conducted a statistical sample of refugee/participants in the program. An examination of 125 sample cases found that the INS had no record relating to the

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[15] Michael Jackson (alias), a convicted drug smuggler, testified at PSI hearings on "International Narcotics Trafficking" (November 10, 1981, pp. 30–31) about the ease with which false identification could be created.

> Mr. JACKSON. Phony identification in the United States is very easy to obtain. You simply go to a large public library in any large city, go through the old copies of the newspapers, find someone who died approximately the same year that you were born. By "died", I mean within 1 or 2 months of his birth. Next, you send off for the death certificate. Once you have the death certificate, you have the information you need to receive the birth certificate. Upon receipt of the birth certificate, you are well on your way to having a total ID. We would go to one of our people in Arizona who made us drivers' licenses for any given State with a picture on it. We took the driver's license and the birth certificate to any regional passport office on Friday morning, with a ticket to London for that afternoon. We would tell them it was an emergency trip, submit the identification we had and by the afternoon we would have a legitimate U.S. passport. When you have the passport, you can get any other piece of identification you want. . . .
>
> Chairman ROTH. Why were false I.D.'s so useful in your operation?
>
> Mr. JACKSON. They were good for us because we could travel in and out of the country at will. There would be no record of us going from one country to another, or our returning here. There would be no record other than the record of the person who, after all, was already dead. If that particular person became what we considered hot, we would burn him up in an ashtray and (he) would become someone new tomorrow.

[16] 7 CFR § 273.2(f)(ii)(C).

[17] Hearing, p. 49.

existence of 21 of these refugee participants. These persons were therefore ineligible to participate. However, they presented sufficient documents to food stamp officials to become enrolled in the program. The Office of Inspector General projected that, based on this sample, $558.248 was paid in one month to 5,440 ineligible refugee/participants in the State of Florida. The Office of Inspector General clearly attributed these improper payments to a failure of food stamp program case workers to verify the applicants INS documentation with INS.[18]

This lack of cooperation is not limited to Florida. Similar cases have been found by the Office of Inspector General in states such as California and Illinois which also have significant numbers of alien/refugee participants in the food stamp program.[19]

The greatest common problem among federal programs is the use of the social security number as an identifier. While the problems surrounding the issuance and use of the social security card and number will be addressed later in this report, it should be noted that most federal benefit programs rely upon the social security number as a common identifier.[20] In many instances, this reliance is misplaced because the Social Security Administration has historically maintained a weak control over the issuance of the number, and has neither the capability nor the commitment to verify the number for non-SSA benefit programs.

Although the social security card is easily counterfeited [21] and raids on counterfeiters indicate the presence of thousands, if not millions, of counterfeit cards on the streets,[22] a significant number of identification frauds are perpetrated with legitimate cards and numbers which were obtained by illegal means. In one case a ring of permanent resident aliens from the Dominican Republic used counterfeit birth certificates to obtain legitimate social security cards and numbers. By applying for welfare benefits using the names and social security numbers of 52 bogus mothers and children, the ring was able to illegally obtain $400,000 from federal and State of Massachusetts assistance programs. In another case three U.S. citizens applied for at least 40 social security numbers through the mail by using the identities of children less than one year old those names had been obtained from vital statistics records. Using these numbers and false earnings statements created to indicate that each non-existent taxpayer was due $16,000 in income tax refunds, the men defrauded the Internal Revenue Service of $650,000 prior to detection.[23]

Schemes such as these, and others which were brought out at the hearings clearly explode the myth that identification fraud is a "victimless crime".

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[18] Food Stamp Program Refugee/Entrant Participant, State of Florida Department of Health and Rehabilitation Services, Economic Services, Tallahassee, Florida, Audit Report 27–19–13 AT, March 1, 1982.

[19] U.S. Department of Agriculture, Office of the Inspector General, Audit Report Number 2723–39–Ch, "Food Stamp Program—Illinois Department of Public Aid," May 27, 1982; and U.S. Department of Agriculture, Office of Inspector General, Audit Report Number 2713–75–SF, "California Food Stamp Program—Participation by Ineligible Aliens," October 9, 1981.

[20] For example, a social security number must be disclosed in order to apply for food stamp benefits, 7 CFR § 273.4; and AFDC benefits, 42 USC § 601 et seq. The consideration of the expansion of the use of the social security number as an identifier continues. See H.R. 6020, proposed amendments to 42 USC § 1401 re: public housing assistance.

[21] Hearing, p. 16.

[22] Hearing, p. 72.

[23] Hearing, p. 177.

C. PREVIOUS FEDERAL EFFORTS TO ADDRESS IDENTIFICATION FRAUD

While the criminal uses of the false identification are well known to the criminal community, there have been few effective, cooperative, and coordinated efforts by federal law enforcement agencies to address identification fraud. Those agencies, such as INS, which have a substantial interest and expertise in identification fraud, have been hampered by a lack of funds to expand their efforts. Furthermore, until recently, INS was not concerned with the federal benefit program impact of false INS document usage. Other agencies such as the Secret Service, which has substantial expertise in forensic investigations, have sought to take a more active role in federal identification crimes, but have not been successful in obtaining the approval and cooperation of the document-issuing agencies.[24]

To date, the most comprehensive effort to examine the impact of false identification on government, commercial and benefit programs was conducted in 1974–1976 under the aegis of the Federal Advisory Commission on False Identification (FACFI). The Commission was created by order of the Attorney General to study how the false identification was obtained as well as the scope of the illegal use of false identification, and to develop a response to the problem. Commission members were chosen from federal and state law enforcement agencies, federal and state benefit agencies, the Department of State, state vital records and motor vehicle agencies, as well as major private firms in banking, credit, insurance and retail operations.

The report issued by the Commission examined the weaknesses in the issuance procedures of state and federal identification documents, credit cards and similar documents. The use of these documents in federal and state programs was examined, as well as their use in schemes to defraud commercial establishments. The report also examined the use of these documents by smugglers, fugitives and terrorists. The report set forth a series of guidelines for federal, state and private actions to combat the problem.[25]

The report issued by the Commission contained many findings and recommendations which are equally valid today. Among them were:

1. Cost

The economic impact of false identification fraud on government and commerce was estimated as being in excess of $15 billion annually. If this figure is adjusted for inflation, the current cost is in excess of $24 billion.

2. Illegal aliens

Illegal aliens routinely use false identification to cross borders, obtain social security numbers, and then work illegally within the United States. The report recommended that INS receive sufficient funds to develop and implement an effective identification system, and that SSA should insist upon stricter evidentiary standards in accepting documentation to issue social security cards and numbers.

3. Benefit fraud

State and federal benefit programs were subject to "outrageous" annual losses from the use of false identification. The report recom-

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[24] Hearing, p. 189.
[25] See footnote 14, supra.

mended that the federal government upgrade standards relating to the identification of benefit applicants, and that the federal government should develop cooperative agreements between SSA and other agencies for the detection and reporting of false identification.

4. False identification data

Federal and state agencies were unaware of the impact of false identification fraud, and this fact was compounded by the absence of any meaningful statistics. The report recommended an increased awareness by these agencies along with the development of methods to prevent such crimes, and that data and statistics on false identification crimes be prepared and shared among the various affected parties.

Despite these timely and valuable recommendations, the Subcommittee has found that there have been few effective attempts to implement them on the federal level. While certain inter-agency efforts in training and investigations have taken place, these efforts seem to be the result of the initiative of local program managers, rather than a positive commitment by senior officials. For the most part, the advice of the FACFI report has been ignored and the effects of the Commission forgotten. When Subcommittee staff investigators tried to examine the files and workpapers of the Commission, they could not even be found by the Department of Justice.

The False Identification Crime Control Act of 1982 (P.L. 97–398), coauthorized by Congressmen Hughes and Hyde from the Committee on Judiciary, originates from legislation endorsed more than six years ago in the FACFI report.

P.L. 97–398 amends Chapter 47 of Title 18 of the United States Code, relating to fraud and false statements. As signed by the President, the bill would make it a federal offense to produce false identification documents or transfer them, knowing they were counterfeit or stolen; to possess such documents with the intent to use them or to transfer five or more of them; and to make, transfer or possess equipment intended for use in making counterfeit identification papers.

Two Senate amendments added to the original House bill would make it a federal offense to possess stolen or false identification documents that appear to have been issued by the United States if the possessor knows that such documents are stolen or counterfeit; and, would make it a misdeameanor for anyone making private identification documents with birth dates and then sending them through the mail to clearly imprint a disclaimer that the document is not a government document.

If the bill is signed and enacted, P.L. 97–398 will fullfill some of the recommendations of the FACFI report and should serve as a deterrent to false identification-related crime and to the manufacturers and distributors of false identification.

D. PROJECT BALTIMORE

In certain limited areas, cooperative efforts have been undertaken since 1976. The most impressive of these efforts is "Project Baltimore".

"Project Baltimore" is a joint investigative effort by the Department of Health and Human Services Office of the Inspector General and INS to counter misuse of genuine and counterfeit U.S. visas, im-

migration documents, and social security cards and numbers. The project evolved in 1978 from an investigation of a social security card counterfeiting ring which resulted in the conviction of nine individuals, including one SSA employee.

Using a task force approach, "Project Baltimore" teams across the country focus their investigative resources on cases with one or more of the following elements: involvement of corrupt government employees, harboring and employment of illegal aliens, creation of false statistical data, and program benefit fraud. As of June 1982, "Project Baltimore" had led to 114 convictions, with sentences of up to five years imprisonment. Fines against individuals have been as high as $10,000 and judgments against corporations have totaled over $575,000. Currently under investigation are 129 other fraud cases. Additionally, "Project Baltimore" has exposed system weaknesses in document issuance procedures at SSA and has been used as a technique to train agency employees in fraud detection and prevention.

Inspector Daniel Lane (Department of Health and Human Services Office of the Inspector General) and Special Agent Walter Hempel (Immigration and Naturalization Service), the originators of the "Project Baltimore" concept, told the Subcommittee that frauds uncovered by the project have a direct, but largely unknown, impact on government benefits programs.[26] To illustrate the diversity of schemes uncovered by "Project Baltimore" teams, Lane and Hempel described four representative cases:

1. Migrant Ministry (New York, N.Y.)

In this case, two ex-cons masqueraded as priests and set up bogus charitable organizations to sell fraudulent immigration documents to illegal aliens. The false documents were then presented to SSA district offices for the issuance of genuine social security cards.

2. Regina Travel Bureau (Garfield, N.Y.)

Over a four year period, the owner of this travel agency made several hundred thousand dollars by selling fraudulent affidavits of support for visas and social security cards to Polish visitors to the U.S. The social security cards secured unauthorized employment as well as federal benefits for hundreds of illegal aliens. In addition, about $100,000 in unemployment compensation benefits from the State of New Jersey was paid to foreign tourists who received social security cards through the Regina Travel scheme.

3. Pedro Martinez (Dallas, Tex.)

The owner of Martinez Immigration Service, along with his son, allegedly sold illegal aliens immigration documents and social security cards which were purchased from contacts in Chicago, Illinois. During the execution of a search warrant, 1,224 counterfeit social security cards, a counterfeit alien registration card, and 362 blank birth certificates were seized.

4. Universal Visa (Los Angeles, Calif.)

The perpetrators of this scheme made an estimated $1.5 million over four years by selling social security cards to illegal aliens for an average of $20 per card. Over 75,000 social security account num-

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[26] Hearing, p. 63, et seq.

ber applications for illegal aliens were coded and packaged in government franked envelopes with the assistance of a corrupt SSA employee. The applications were then mailed directly to an SSA computer center and keyed into the data base. As a result, tens of thousands of good social security numbers were issued in spite of program integrity controls at the SSA district office.

Chairman Roth and Senator Rudman noted that "Project Baltimore" is an important and innovative interagency effort which deserves expansion.[27] Inspector Lane recommended that SSA institute procedures to notfy other agencies of social security numbers used by people who created fictitious identities, by illegal aliens who fraudulently obtained the cards, or by non-immigrant aliens who are not entitled to participate in benefit programs. Right now there is no system in the Federal government to develop and use this information.[28]

II. Today's Federal Identification Documents

A. DESCRIPTION OF DOCUMENTS

While the federal government issues and uses a myriad of identification cards, badges, certificates and like documents, the Subcommittee limited its inquiry to those which are commonly used in a variety of federal programs. A glossary of these documents was introduced as an exhibit during the hearings.[29]

1. U.S. Passport [30]

This document identifies the bearer as a U.S. citizen. The document is issued by the Department of State to U.S. citizens both domestically and abroad. The State Department issues approximately 12,000 passports daily.[31] In fiscal year 1981, the Department issued over 4 million passports.[32]

In order to obtain a passport, a U.S. citizen must fill out an application and present documents which establish the applicant's identity and U.S. citizenship. Passport applications are accepted at 14 domestic passport agency offices operated by the State Department, four agencies in U.S. insular possessions (Puerto Rico, Guam, the Virgin Islands, and American Samoa), 800 designated U.S. Post Offices and 2,500 federal and state courthouses around the country.[33] Unless the applicant applies directly to a passport agency, no personal appearance is required before a State Department employee. The State Department receives applications from Post Offices and courthouses through the mail and returns the supporting documents when the completed passport is mailed back to the applicant.

The most common passport, known as the regular or tourist passport, is issued on two forms. One form has the personal information typed in the passport with the passport number perforated through the cover and all pages. The State Department is gradually shifting to a new passport, known as the Travel Document Issuance System

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[27] Hearing, p. 75.
[28] Ibid.
[29] See Exhibit 1, Hearing, pp. 5–11.
[30] Exhibit 1a, Hearing, p. 6.
[31] GAO Report, ID–81–39: "Management of the Department of State Office of Passport Services Needs to Be Improved," p. 3, Aug. 6, 1981.
[32] Hearing, p. 126.
[33] Hearing, p. 178.

(TDIS) passport.[34] This passport resembles the old passport; however the identifying information is printed in Optical Character Reader (OCR) typeface on the inside cover. The Department of State began issuing this document in the Washington, D.C. agency in 1981 and has recently expanded issuance to Chicago and Los Angeles.[35] It is the ultimate goal of the Department of State is issue a passport which can be read by machines at all major ports of entry. Unfortunately, to date only the three TDIS passport-issuing agencies have machine readers for the new passports.

2. U.S. nonimmigrant visa [36]

This is a document issued by American consular offices overseas. The applicant, an alien seeking temporary entry into the U.S., presents documents to the consular official establishing identity, citizenship, and eligibility for temporary entrance into the U.S. If the application is accepted, an appropriate visa is stamped into the applicant's passport. In FY 82, over seven million visas were issued at over 240 locations.[37]

The visa contains certain minimal security features. The stamping machinery is under the control of consular officials. The stamped visa contains the signature of the issuing official. In high visa fraud areas, the consular officer also affixes a numbered "counterfoil" as an additional deterrent to fraud.

The visa is then examined by INS or Customs officials at the U.S. port of entry.

3. INS documents

a. INS Form I–151, the "Green Card" [38].—This card was issued by INS from 1946 to 1977. In all, 17 different versions of the card were issued. The card is designed to identify a permanent resident alien who is lawfully residing in the U.S. At time of entry, the alien presents the necessary documents to INS to establish identity and eligibility for permanent resident alien status. The application is reviewed by INS and if the application is approved, the card is issued. Because the card was easily copied by alien smugglers and identification counterfeiters, INS repeatedly changed the card, but never recalled or cancelled the previously issued versions. Only trained INS inspectors could distinguish the subtle nuances among the 17 versions. A recent cooperative effort between INS and SSA in Denver showed that 50% of all I–151s offered in support of an application for a social security card were counterfeit.[39]

b. INS Form I–551, the Alien Documentation, Identification and Telecommunications System (ADIT) card [40].—Because of the all too apparent inadequacies of the green card, INS began the development of a secure tamper resistent card to replace the I–151. The culmination of these plans is the ADIT card, the cost of which is expected to reach $67 million by FY 84.[41] The card, which INS began to issue to all new applicants in 1980, contains a photograph and fingerprint

[34] Exhibit 1a, Hearing, p. 6.
[35] Hearing, p. 256.
[36] Exhibit 1b, Hearing, p. 7.
[37] Hearing, p. 126.
[38] Exhibit 1d, Hearing, p. 9.
[39] Hearing, p. 2.
[40] Exhibit 1c, Hearing, p. 8.
[41] GAO Report, GGD–79–44: "New Alien ID System—Little Help in Stopping Illegal Aliens," May 30, 1979.

on the face of the document and three lines of machine-readable (OCR) characters on the reverse. If an alien's application has been submitted and approved the card is issued by computer at a centralized production facility. Personal information from the applicant's file is converted into OCR numbers and printed on the back of the card. If the card is read by an OCR computer, the data is printed on a display screen, enabling the INS official to ask the bearer about information contained in the application.

c. INS Form I–94, Record of Arrival and Departure.[42].—This multi-copy record is designed to record the arrival and departure of all foreign visitors to the U.S. Upon arrival in the U.S., the air, land or sea carrier provides the form to the traveler to fill out. The carriers are allowed to print and distribute the forms. In many cases, due to foreign tariff restrictions, the form is even printed in another country. The traveler presents the form to INS at the port of entry, along with a visa and other identity documents. If the entrance is approved by INS, a rubber stamp is affixed to the form indicating the type of admission which has been approved. One copy of the form is given to the traveler, a second copy is retained by INS.

Upon departure from the U.S., the traveler's copy is collected by the carrier and returned to INS. There, it is to be manually matched with the original copy kept by INS at the port of entry.

INS's ability to control the I–94 is, by its own admission, clearly inadequate.[43] In FY 81, INS processed 291 million individuals entering and leaving the U.S., many of whom received an I–94. Currently, it is estimated that a backlog of 32 million unmatched I–94's are in INS' possession.[44]

Because of this inherent problem, INS announced at the September hearing that it would issue a new I–94 in 1983. This form would have a number of strengths over the existing form, most important of which is the ability to match the forms by computerized data processing.[45] Given INS' historic inability to successfully implement computerized immigration documents,[46] the probability that INS will make this system work is subject to question.

4. Social Security card [47]

As stated earlir, the social security number is the most common identifier in federal benefit programs. Since the creation of the social security system in 1935, over 250 million social security cards have been issued.[48] For years, the position of SSA was that the social security card was merely a piece of paper that the social security number was written on and that the card itself was neither intended nor designed to be an identity card. This attitude persisted at SSA for years, even though the use of the card as an identity document was well known to the illegal alien and criminal communities.[49]

Until 1978, SSA required a person to certify only his name, place of birth, and parents' names in order to receive a social security card.

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[42] Exhibit 1e, Hearing, p. 10.
[43] Hearing, p. 112.
[44] Hearing, p. 184.
[45] Hearing, p. 112.
[46] See Footnote 41, *supra*.
[47] Exhibit 1f, Hearing, p. 11.
[48] Hearing, p. 119.
[49] Hearing, p. 16; FACFI Report, p. 24 (see Footnote 13, *supra*).

Because of strong Congressional pressure to tighten up on card and number issuance procedures.[50] SSA implemented more stringent application requirements. All applications must present proof of age, identity, and U.S. citizenship. Those over 18 must undergo a personal interview.

If the interview was conducted at an SSA district office, that office formerly had the ability to assign a number and issue a card from card stock on hand. Because of repeated Department of Health and Human Services Inspector General criticism concerning the weaknesses over security of the card stock and number issuing system,[51] SSA has started to computerize the card and number issuance process. Computerization will remove the card stock from all district offices, and place card and number issuance in a central location.

As as direct result of the Subcommittee's June hearing, SSA Commissioner John A. Svahn testified in September that beginning in 1983, the agency will issue a new, counterfeit-resistance social security card.[52] While this is an improvement over existing practice, the card only will be issued prospectively, thereby leaving a substantial number (250 million) of easily compromised cards in circulation.

B. USE OF FEDERAL ID DOCUMENTS TO PENETRATE BENEFIT PCOGRAMS

The importance of these documents becomes readily apparent when their use in benefit programs is examined. Most federal and many state programs require the applicant to prove identity and eligibility by presenting documents to the benefit agency. Many of these agencies, by published regulation or internal directives, identity which federal documents are acceptable.[53]

Clearly the most commonly required identifier is the social security number.[54] The Deputy Inspector General of Health and Human Services, Bryan Mitchell, testified that as of last count, an applicant must have and disclose a social security number to obtain any of the following benefits: Social Security, Social Security Supplemental Income (SSI), Medicare, Medicaid, Food Stamps, Aid to Families with Dependent Children (AFDC), Student Loans, Unemployment Compensation and Black Lung Benefits.[55] The number is also the official taxpayer identification number.[56]

Unfortunately, most benefit programs merely described what documents are to be accepted. They do not, for the most part, require the

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[50] Hearing, p. 249.
[51] Hearing, p. 212.
[52] Hearing, p. 120.
[53] See for example:
a. Documents needed to establish eligibility for Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act 42 U.S.C. § 1381 *et seq.*:
20 CFR § 416.203 states that in order to establish U.S. citizenship the Social Security Administration office should examine a copy of a U.S. passport.
20 CFR § 416.205 states that in order to establish permanent resident alien status the Social Security Administration Office should examine an INS form I–151.
20 CFR § 416.204 states that in order to establish refugee status the Social Security Administration office should examine an appropriately stamped Immigration and Naturalization Service form I–94.
b. Documents needed by aliens to establish eligibility for food stamps:
7 CFR §273.2(f)(ii) (B) and (C) instruct state agencies to accept the I–151, I–551 and I–94 as proof of eligibility.
[54] See e.g., 7 CFR § 273.6 which requires food stamp applicants to obtain and disclose a social security number.
[55] Hearing, p. 88.
[56] Hearing, p. 246.

accepting agency to verify the legitimacy of the documents with the issuing agency.[57]

While this lack of communication between agencies is appalling, there are some signs of a shift to greater cooperation. As a result of our June hearings, INS is beginning a project to warn state and federal agencies about the weaknesses in the I–94.[58] Recently, SSA also began issuing non-work social security numbers on a new card which states on the face of the card that it is not valid for employment.[59]

However, the most encouraging sign was the commitment made by Commissioner Svahn at the September hearing to review the entire disclosure policy of SSA regarding the sharing of agency information to deter fraud in all government programs.[60] The Subcommittee hopes that this new effort will lead to increased cooperation among SSA, law enforcement agencies, and other benefit agencies and will result in the effective sharing of identity and eligibility information among these agencies.

III. Fraud Schemes Utilizing False Identity Documents

In the course of its examination, the Subcommittee investigated a wide range of schemes involving the fraudulent use of federal identity documents to establish eligibility for federal and state benefit programs. Some schemes involved defrauding only one program, while others involved false claims and statements in a number of programs, using a variety of documents. However, there was one common factor among all of the schemes: each was successful, to a degree, because neither federal law enforcement nor benefit agencies have established an effective mechanism to share false identification information.

A. JAMES A. OSEME

This case provides an excellent example of the use of a false claim of United States citizenship to defraud state and federal assistance programs out of thousands of dollars. By adroitly exploiting weaknesses among the Department of State, INS, the Department of Education and the Department of Justice, James A. Oseme was able to improperly enter the United States, improperly remain within the United States, illegally obtain state and federal education assistance, apply for state unemployment compensation, avoid prosecution, and keep the money stolen from federal and state funds.

Oseme, a Nigerian citizen, entered the United States from Nigeria in 1976 under a non-immigrant student visa. Oseme enrolled simultaneously at three Colorado colleges: the University of Colorado at Denver, Metropolitan State College and the Community College of Denver. Oseme was required to file an INS Form I–20 at each college indicating that he was in the U.S. on a student visa and that he had sufficient personal funds to attend school. However, Oseme also filed for financial assistance at each school. His student loan application indicated at various times that he was either a permanent resident alien or a U.S. citizen because if he disclosed his actual status, non-

[57] See Footnote 51, *supra*.
[58] Hearing, p. 112.
[59] Hearing, p. 118.
[60] Hearing, p. 119.

immigrant student, he would have been ineligible for aid. Although a check with the local INS office or with the college's own foreign student office would have disclosed his true status, no such check was made. During the period 1976–1980, Oseme received over $12,000 in federal and state assistance.

In 1974 Oseme sought to obtain permanent resident alien status by allegedly marrying a U.S. citizen. In 1980 INS discovered that his marriage was a sham and commenced an investigation of Oseme. He was arrested in May of 1980 and was allowed to voluntarily leave the United States, in lieu of being deported, on June 6, 1980 to return to his home in Nigeria. Before leaving, Oseme received an additional student loan check for $900, which he picked up on June 5.

At that time neither the Department of Education nor the INS officials were aware that Oseme had defrauded the student loan program. However, the fraudulent circumstances of his attempt to obtain permanent resident status were never memorialized by INS nor passed on to the Department of State or to the officials at the Colorado schools. On June 17, 1980 Oseme appeared before U.S. consular officials in Lagos, Nigeria and was again issued a non-immigrant student visa. Oseme returned to the United States on July 19, 1980, after alledgedly visiting U.S. hostages in Iran. He proceeded to enroll for the next semester in all three Colorado schools, and again applied for financial assistance as a permanent resident alien.

During his stay in the United States as a student, Oseme was ineligible to work in the United States. Despite this, Oseme obtained a number of jobs with the Colorado state agencies which administer Colorado's unemployment compensation program. In August 1980 and April 1981, Oseme filed claims for unemployment compensation. Since Oseme was not eligible to work in the United States, he also was not eligible for unemployment compensation. On one such claim he again certified he was a United States citizen.

Finally, an alert official in the financial aid office of the Metropolitan State College noticed the conflicting claims of citizenship made by Oseme on numerous applications. It was soon learned that he was simultaneously enrolled in three different schools. The Office of Inspector General of the Department of Education and INS were called in to investigate the case. In March 1981, Oseme's Nigerian wife entered the United States with their two children for the purpose of being with Oseme.

Oseme was arrested by INS and became the subject of a grand jury investigation for student loan and mail fraud. Because of delays in getting an indictment, Oseme was formally deported on August 10, 1981. On September 11, 1981 he was indicted by a federal grand jury on three counts of mail fraud.

However, even though INS was aware that Oseme had been deported, had made numerous false claims of United States citizenship, was under grand jury investigation for fraud, had been allowed to voluntarily depart the United States and had returned to the United States within one month to resume a pattern of student loan fraud, no effort was made by INS to place Oseme's name in the agency's lookout system. No warning was sent to INS inspectors at the border, and no message was sent to the Department of State. No

lookout was posted for Oseme until one month later, when he was indicted *after* his deportation. At this point he was entered as a fugitive in INS' lookout system by the U.S. Marshals Service. The State Department was never informed of this case and never placed Oseme in its lookout system until notification by the Subcommittee in May 1982.

This laxity by INS is inexcusable for a number of reasons. As there was a formal deportation proceeding, based on Section 241(a)(2) of the Immigration and Naturalization Act, Oseme's name should have been automatically added to the lookout system of INS and should have been immediately reported to the Department of State. This is particularly important in light of the fact that Oseme had previously left the United States after being arrested for visa fraud, returned to Nigeria, reapplied for and received a new visa, returned to the United States, and re-enrolled in school—all in six weeks' time.

This case is important because it demonstrates that the failure of agencies to share information enables unscrupulous parties to defraud numerous programs. Additionally, it shows that when agencies finally began to cooperate, as did the Office of Inspector General of the Department of Education and INS, important cases involving major frauds of benefit programs can be successfully completed.[61]

B. FRAUD SCHEMES RELATED TO SOCIAL SECURITY

HHS Deputy Inspector General Bryan Mitchell testified about numerous fraud schemes involving HHS programs and the social security number.[62] Many of these schemes involved corrupt SSA employees who created fictitious benefit claims or who assisted others in defrauding the Social Security Administration.

Other cases involved the sale of packages of counterfeit social security and state documents. For example, a Cook County, Illinois deputy sheriff was convicted of selling such packages to illegal aliens. In other cases, groups of individuals would create multiple identities and use these identities to defraud social security and food stamp benefit programs.

C. STUDENT LOAN FRAUD

James B. Thomas, Jr., the Inspector General of the Department of Education, testified about numerous cases where false identities and false claims of U.S. citizenship or permanent resident alien status, supported by false documents, were used to illegally receive federal and state education assistance.[63] In one case, 15 family members fraudulently obtained over $250,000 in federally guaranteed loans. In another case one person used over 23 false identities, supported with social security documents, to receive 39 student loans worth $70,000. In New York, one person filed 60 applications, seeking $140,000 in student loans. This scheme involved false names and social security numbers, too.

The most comprehensive investigation conducted in this area has been "Project Rhode Island." This was a joint project among the De-

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[61] Information about the Oseme case, including records of the investigation by the Department of Education's OIG and INS, are available in the Subcommittee's files.
[62] Hearing, p. 86, *et seq.*
[63] Hearing, p. 70, *et seq.*

partment of Education's OIG, INS and the Postal Inspection Service. The project was designed to identify foreign students who were illegally receiving student financial assistance. The project was initiated in Rhode Island, but has expanded nationwide. As of November 1982 the project had produced 105 indictments, 38 of which have led to convictions to date. These students had fraudulently received over $500,000 in student benefits.[64]

D. INCOME TAX FRAUD

Internal Revenue Service Commissioner Roscoe L. Egger, Jr., testified about a continuing agency project known as the Questionable Refund Program which is designed to detect fictitious and multiple filings of income tax returns.[65] These filings involved the use of false social security numbers. (The social security number has been used as the taxpayer identification number since 1976.) In processing income tax returns, IRS by statute has the right to verify certain data with the Social Security Administration concerning identity and earnings. This information enables IRS to identify certain questionable returns and refer these returns to IRS criminal investigators.

Since 1977, IRS has detected over 2,000 schemes involving 17,000 income tax returns, and illegitimate claims for almost $30 million. Because of IRS' sensitivity to these schemes, and because of its ability to verify data with the Social Security Administration, IRS detected 90 percent of these cases before a refund was paid. Over 1,300 investigations were conducted leading to 485 convictions from 1977 to March of 1982.

Many of these schemes were perpetuated by federal and state prison inmates, some of whom had been previously convicted for tax fraud. In one such case, a prisoner was convicted on four separate occasions for filing false multiple returns. The inmate used social security numbers of fellow inmates which he obtained from clothing in the prison laundry.[66]

E. BLACK HEBREW ISRAELITES

William T Murphy, the Assistant Inspector in Charge of the Postal Inspection Service's Washington Division, testified about his office's involvement in investigating a group of individuals who had used a variety of identification documents to commit their crimes.[67]

Beginning in 1978, certain numbers of an organization known as the Black Hebrew Israelites were implicated in a series of mail robberies. Numerous items of mail including credit cards, airline tickets, and government personnel checks and bank statements were stolen. These crimes were part of a larger scheme which involved the infiltration of travel agencies and banks by other members of the group. Members of the group would then obtain items of identification, such as passports, drivers licenses and birth certificates to support an

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[64] See U.S. Department of Education, Office of the Inspector General: "Semiannual Report to Congress, April 1, 1982—September 30, 1982," No. 5, p. II–6.

[65] Hearing, p. 76, *et seq.*

[66] The Senate Government Operations Committee, now known as Governmental Affairs, identified this problem six years ago. In a February 1977 staff study, "Computer security in Federal Programs," the Committee described in detail methods used by Federal prisoners and other violators who filed multiple tax returns and received refunds from IRS.

[67] Hearing, p. 62, *et seq.*

imposter who would seek to cash the stolen checks or use the stolen credit cards.

The extent to which false documents were used to support these schemes was demonstrated in June of 1981 when, pursuant to a search warrant, the Postal Inspector searched a residence used by members of the group. This search uncovered 3,000 checks, 100 credit cards, 63 passports, 500 birth certificates and 500 other items of identification.

The Postal Inspector's investigation also uncovered evidence of an elaborate scheme to use false identification to assist fugitive members of the organization. Currently eight members of the group are fugitives and are suspected of having fled the U.S. using false passports and other forms of identification. To date, over 28 members have been arrested and nine have been convicted.

F. UNEMPLOYMENT COMPENSATION FRAUD

Illinois Attorney General Tyron Fahner presented testimony concerning an innovative project which his office undertook in cooperation with the Chicago INS office.[68]

After being jolted by a series on the fraudulent use of Social Security cards done by Mr. Russ Ewing, a reporter for WLS–TV in Chicago, authorities developed a simple system to verify the eligibility of aliens applying for unemployment compensation benefits at one office. Since only permanent resident aliens are entitled to work in the U.S., and since only this category of aliens would be eligible for unemployment compensation benefits, the applicant was required to produce an INS green or ADIT card at time of application. This document was then checked with INS to verify its validity as well as the entitlement status of the applicant. While this system appears to be relatively simple, it had never been tried in Illinois and was not in use in any other state.

Illinois' results were shocking and had an immediate impact on benefit expenditures. During the first four weeks, 51% of all alien applicants produced fraudulent INS cards. By denying these applications, Illinois saved an immediate $222,907 in one office. The project was soon expanded statewide, and it was found that on one day 46% of all alien applicants in the state were using false INS cards. In that day, Illinois saved $262,656. By projecting this figure on an annual basis, Mr. Fahner estimated that Illinois was losing approximately $66.2 million a year in benefits improperly paid to ineligible aliens. He also stated that as a result of the project and its attendant publicity, use of false identification documents to obtain unemployment compensation benefit already has been substantially reduced

Mr. Fahner's testimony also provided the Subcommittee with an important observation concerning the use of documents to commit fraud. He observed:

> All of us in government feel the pressure of providing social benefit programs to the truly needy. This has become increasingly difficult in days of tight budgets and budget cutbacks. Dollars for these programs are hard to come by. And

[68] Hearing, p. 96, et. seq.

as you well know, we are trying to stretch every penny as far as it will go.

In times like these, fraud in the benefit system becomes more than waste—Fraud in benefit programs can mean the difference between delivering services to the poor, the sick, the elderly and the jobless, or leaving them with no hope.[69]

This concern is shared by the Subcommittee, and indeed serves as the primary purpose of its inquiry.

Mr. Fahner concluded his testimony with certain important recommendations. He urged:

1. Greater cooperation between INS and state benefit agencies to identify and eliminate from the roles ineligible aliens;
2. Greater use of computer matching among agency data bases to verify identity and eligibility;
3. The development of counterfeit proof identification cards;
4. That the Department of Justice give greater priority to prosecutions which involve the use, sale and manufacture of false INS documents; and
5. The improved availability of benefit applicant information to law enforcement agencies.[70]

IV. Review of Specific Problems in Document Issuing Agents

Because many of the cases examined by the Subcommittee involved SSA, INS and the Department of State, an examination of each of these agencies was made. This examination was designed to determine the level of document fraud awareness within the agency, the commitment of internal law enforcement resources to identify and combat document fraud, and the willingness of the agency to share information and cooperate with other federal agencies which, in issuing documents and/or benefits, rely upon the documents issued by these agencies in making identity and eligibility determinations.

A. IMMIGRATION AND NATURALIZATION SERVICE

The Immigration and Naturalization Service of the Department of Justice has primary responsibility for the administration and enforcement of laws governing immigration. INS determines the admissibility of all persons seeking entry to the United States, patrols the U.S. borders, and apprehends those who enter illegally or who are in violation of the terms of their entry. Additionally, the agency is responsible for providing services to the public such as processing naturalization and citizenship applications.

INS' historic lack of resources and manpower has made its competing functions—enforcement and service—that much more difficult to carry out.[71] Since 1949, there have been several executive and congressional proposals to reorganize the administration of immigration

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[69] Hearing, p. 96.
[70] Hearing, p. 102.
[71] See GAO Report, GGD–81–4: "Prospects Dim for Effectively Enforcing Immigration Laws", November 5, 1980.

functions.[72] The proposals have been similar in their attempts to combine the INS inspection and border patrol functions with those of the U.S. Customs Service, as well as to transfer the visa issuance functions from the Department of State to INS. No significant changes have been made, however, because the agencies involved have always opposed the proposed changes, as has the Congress. Although in its March 1981 report the Select Commission on Immigration and Refugee Policy recommended that the present Federal agency structure be retained, the staff noted that "if the Select Commission was putting together the first system for administering U.S. immigration laws, the staff would recommend the creation of an independent agency responsible for the making of policy and regulation and for overseas and domestic administration of the immigration and nationality laws." [73]

The combined strength of INS' border patrol and internal enforcement staffs numbers only half that of the New York City Police Department. Of the 700 INS investigators located throughout the country, only 100 are assigned full-time to fraud investigations.

According to 1980 statistics, INS presented 2,541 fraud cases to the Department of Justice, of which 1,500 were accepted for prosecution. Included in this number are all types of cases: false claims to U.S. citizenship, marriage fraud, and immigrant petition fraud as well as counterfeit document fraud. To better understand fraudulent document cases typically pursued by INS, the Subcommittee staff canvassed all of the INS regional offices and requested copies of closed cases in which there was a document offense. None of the offices except the Chicago district were able to provide information or statistics on criminal cases related to document misuse.[74] Adding to the problem is the lack of any meaningful penalty attached to a false claim of U.S. citizenship or resident alien status.[75] The mere act of interdicting those seeking to enter the country illegally and sending them back across the border or overseas is unsuccessful unless a monetary or criminal penalty is imposed. Tyrone Fahner, Illinois' Attorney General, made this point during his testimony before the Subcommittee.

> * * * INS people will almost on a daily basis send busloads of people back to Mexico * * * they are not prosecuted. They are detained only to be turned back. When they come back into this country, after the fourth or fifth time * * * they are prosecuted * * * [76]

INS participates in the multi-agency El Paso Intelligence Center (EPIC). EPIC gathers intelligence on narcotics, aliens, and weapons smuggling. All INS closed files relating to the investigation of an alien's false claim to U.S. citizenship repose at EPIC, where an INS employee serves as the director of the False Documents Files. Cases

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[72] See "Proposals to Reorganize Immigration and Border-related Functions", by Sharon D. Masanz, Congressional Research Service of the Library of Congress, June 4, 1982.

[73] Select Commission on Immigration and Refugee Policy—"U.S. Immigration Policy and the National Interest; the Final Report and Recommendation of the Select Commission," Washington, 2981, p. 234.

[74] The Chicago office informed the Subcommittee that, in its district, 32 criminal cases relating to counterfeit documents have been accepted for Federal prosecution since January 1976. These cases have involved 50 defendants, 37 of whom have been convicted, and have resulted in the seizure of 41,960 documents.

[75] 18 U.S.C. § 911.

[76] Hearing, p. 107.

in which an alien uses phony identification for reasons other than a claim to U.S. citizenship are not stored or indexed at EPIC but remain in field offices, so there is a large gap in intelligence gathering capabilities. Also, there is an 18-month delay before closed cases reach EPIC from the field and are indexed into the files. Once cases are received and stored, no further analysis of the investigative intelligence is undertaken. No attempts are made to identify geographic trends as to be sources or distribution network of bogus documentation, or to establish a correlation between various counterfeit documents. The role of the senior INS official at EPIC is secondary to his obligation to participate on the Center's narcotics intelligence function.

At the June hearing, the Chairman noted his concern about the superficiality of INS' approach to document fraud in this exchange with Joseph Salgado, the agency's newly-appointed Assistant Commissioner for Enforcement:

> Chairman ROTH. Let me go back and ask you, Mr. Salgado, are you aware or any program in the Government at this time to make those responsible for administering the various benefit programs aware of the problem with those identity documents, and, if so. what are these programs?
>
> Mr. SALGADO. In all honesty, no, I am not aware of any concentrated sophisticated effort to do it. Essentially, I don't know if we are trying to address this problem on cross-interagency borders or not.
>
> Chairman ROTH. In view of the widespread problem that seems to permeate our entire country and involve all types of benefit programs, to me that is outrageous, unbelievable that something hasn't been done in this area.
>
> Mr. SALGADO. The broad spectrum of documents fraud, per se, I don't believe has been addressed and does have to be addressed. It is a complex area we are dealing with, who provides the identifier and who is entitled to the benefits. It just permeates itself from that point on, but you are correct, sir.[77]

Fraudulent INS documentation is used to gain employment and to procure unauthorized state or federal benefits. Under these conditions, INS' internal inspection force is woefully unequipped to stem the flow and usage of false documents, particularly when a convicted counterfeiter such as Newton Van Drunen estimates the market for bogus documents in the Chicago area alone is roughly five million documents a year.[78]

1. Getting in with the right documents

In 1981, INS estimates that it processed 291 million individuals at ports of entry; one million were denied admission to the United States. Cross-trained Customs inspectors work with INS to determine the authenticity of entry documents presented as well as verification of identity.

Temporary visitors to the U.S. are granted visas by the Department of State in their country of origin. Responsibility for the for-

[77] Hearing, p. 50.
[78] Hearing, p. 18.

eigner at the U.S. port of entry, however, falls to INS which has the authority to negate a valid visa at the time and place of entry if circumstances warrant such action.

Non-immigrant visitors fill out an INS arrival/departure record when admitted to the U.S. INS keeps the original form, known as I–94, and the visitor retains a duplicate copy. The I–94, which indicates the alien's name, citizenship, passport number, and status upon admission, may also be rubber-stamped by INS to indicate that the bearer is a refugee or is authorized to work in the U.S. With a refugee or work authorized designation, the I–94 becomes a much coveted form of identification as the bearer is now entitled to all the same federal benefits as a U.S. citizen.

The I–94, however, is so lacking in security features that it is legally permissible for commercial airlines to print their own versions of the form for airline passengers. The stamp and ink INS uses to note "refugee" or "work authorized" status are easily duplicated.[79]

Theoretically, the arrival/departure record system was intended to provide INS with information on the number of temporary visitors to the U.S., where they are located, and whether they are in compliance with the terms of their admission. The visitor's copy of the I–94 is to be surrendered to INS at the time of departure, and it is then to be matched with the original record INS maintains. Yet, INS has delegated responsibility for collecting the I–94s from departing aliens to commercial airlines. Huge backlogs in reconciling duplicate with original I–94s—now hovering at 32 million unprocessed forms—effectively eliminates this system as a control mechanism.[80]

INS has steadfastly maintained that there is no need to incorporate secure features into the I–94 to make it more tamper resistant since the only purpose of the I–94 is to serve as a record of entry and departure, not to record identity or entry eligibility. Unfortunately, INS has failed to realize that other agencies, such as the Department of Agriculture and state Departments of Motor Vehicles, rely upon the document to prove an applicant's identity and entitlement to food stamps or a driver's license.[81]

Doris Meissner, Acting Deputy Commissioner of INS, acknowledged that "utilization and reliance solely on the I–94 document invites the potential for fraud, waste and abuse in many programs."[82] As a result of this Subcommittee's inquiry, INS is now coordinating an inter-agency effort to study and review the use of the I–94 in federal benefit programs. INS has been informing state governments that the I–94 should not be relied upon solely as the basis for issuing driver's licenses and other documents.[83] Lastly, INS has contracted with a firm to design a new arrival/departure record system which is to be installed and operating in January 1983. A prototype of the new I–94, which was shown to the Subcommittee staff in August 1982, uses a serial number on the face of the document to tie it to a computer

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[79] Hearing, pp. 48–49.
[80] See GAO report, GGD–80–87: "Controls over Non-immigrant aliens remain Ineffective," September 11, 1980.
[81] See footnote 58, supra.
[82] The Subcommittee's files contain copies of recent letters from Joseph Salgado, INS Associate Commissioner for Enforcement, to both Federal and state agencies concerning the use of the I–94 form as a sole identifier.
[83] Hearing, p. 112.

data base—a feature which should improve the I–94's security and usefulness.[84]

Although there have been many problems with the I–94 as an identifier and record, the Subcommittee is aware that INS needs some type of identify document to issue to non-immigrants for reasons other than arrival and departure in the United States. To that end, the INS Foresnic Lab just developed a new document to be tested on Haitians who were paroled from an INS facility in Florida under court order and who have need of a document for identity purposes.[85] This document is produced in a fashion similar to the ADIT card (I–551) but it includes a toll-free number on the back of the card with instructions on how to contact INS to verify the bearer's alien status.

2. "Green" cards—or green light?

Aliens eligible to reside permanently in the U.S. are issued alien registration cards (I–151s) known as "green" cards. Since 1946, INS has issued 17 versions of this card. Each time a security feature was compromised a new version with better security features was introduced; however, old versions of the "green" card are in circulation today and all are accepted as valid. And as a result, there is a large market for fabricated or altered, old-style "green" cards.[86]

In July 1980, INS began to operate the Alien Documentation, Identification and Telecommunications System (ADIT) which provided a new, "counterfeit-proof" alien registration card along with an automated data base capable of verifying personal information about each cardholder. To date, approximately three million ADIT cards have been produced and issued to permanent resident aliens. From the outset of the program, however, the effectiveness of the ADIT card system has been called into question. First, alien registration card issued prior to ADIT (I–151s, all 17 versions) have not been recalled. Second, INS is months behind schedule in issuing ADIT cards to arriving immigrants. INS field agents told Subcommittee staff that the lag time in issuing credentials is three to six months. In the meantime, new arrivals are given the more easily compromised form I–94 to use as identification and authorization to work. Third, the primary security feature of the ADIT card is encrypted personal data which could be used to determine card authenticity as well as to verify the user's identity. But no optical scanners do decode the encryptions are available to INS or Customs inspectors at ports of entry. Contrary to its original design of the system, INS scrapped plans to implement optical scanners at U.S. ports of entry. Instead, INS chose to rely on MIRAC, an existing INS data base, to verify card information. Unfortunately, the ADIT data was not available to the MIRAC computer until March 1982. Therefore, INS issued the ADIT card for five years without having any computerized capability to retrieve the information on the card. As it stands, only 63 of the almost 300 INS offices have on-line MIRAC access. By the end of 1982, INS expects another 20 offices will be in the system. Both Senator Roth and Rudman remarked on the irrationality of INS' planning and implementation of its "counterfeit-proof" identity card system.[87] Senator Ruman further established the poor design

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[84] Ibid.
[85] *Louis* v. *Nelson*, 544 F. Supp. 973, 1982.
[86] See footnote 41, supra.
[87] Hearing, pp. 51 and 52.

and planning of the ADIT system through his questioning of the INS witness:

> Senator RUDMAN. Mr. Salgado, these are not new problems * * * suddenly discovered this morning at 10 o'clock. They have been going on for years. People are taking this Government for student loans, social security benefits, unemployment benefits, food stamps.
>
> We have no idea of the extent of this. And what I don't understand is why * * * why go to all the trouble of printing those cards with computerized information to be read by the scanners and then not buy the scanners? Do you know why?
>
> Mr. SALGADO. All I know is the optical scanner has been put on the shelf and not on line now . . . resources have been directed toward the utilization and expansion of our computer capacity.
>
> We may not be as efficient as having the optional scanner handled by the border patrol men, but I think we have the capabality to address that particular security feature on the card. As I indicated previously, we are expanding those complter capabilities.
>
> Senator RUDMAN. Mr. Salgado, I understand that in the 1970's a fairly extensive program was initiated for accquiring computers, be they inputed by keyboards or scanners, the method of input is really not very important, and that it was botched so badly that the whole thing was scrapped. Really we are starting from ground zero again, is that correct?
>
> Mr. SALGADO. You are correct in your initial statment.
>
> Senator RUDMAN. Mr. Salgado, the problem really isn't as difficult as maybe you paint it. Let me point out to you that any police officer in this country can pick up a radio in his squad car or her squad car, take a telephone and call headquarters and inside of 1 minute from the NCIC system can get a listing of criminals, a listing of stolen guns, or stolen television sets—a very simple system. Software for a number of identification corroborations have existed in this country since 1968.
>
> Why hasn't INS at least gone to that kind of a system to put the numbers into the system and at least have someone able to confirm. That does not require state of the art. It does not require any great mathematical genius. It requires buying an existing package, putting it on line so we least have something so our previous witness couldn't go out make whatever he made a year selling phony I.D.s [88]

3. The Mitre Report

After its June hearing, the Subcommittee came upon a publication which details the "inner working" of a machine-readable identity card system bearing an unmistakable resemblance to the ADIT card system. The publication was printed in April 1977 by the Mitre Corporation

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[88] Hearing, p. 51.

of Bedford, MA.[89] Since the mid-1970s, Mitre has been a consultant to INS on the research and development of the ADIT card system.

Two independent forensic experts were asked by the Subcommittee to review the Mitre Report, particularly with respect to analyzing whether important security features of the ADIT card system are revealed in the document. Both experts agreed that the report is detrimental to the security of the system because it unnecessarily discloses confidential details about the ADIT concept. At the time, however, the experts approached by the Subcommittee staff did not feel that an adept counterfeiter would need such a publication to recreate the ADIT card itself.

When interviewed by the Subcommittee staff, Mitre Corporation officials admitted that their report may have compromised the security of the ADIT system, but it was Mitre's contention that the ADIT card by itself, used without the optical scanning equipment, is not a secure document. In other words, implementing one-half of the ADIT system design, as INS did, accomplished none of the goals for which the system was designated.

At the September hearing, Chairman Roth expressed his concern that publication of the Mitre Report caused a possible breach of security as well a violation of the term of the research between INS and the Mitre Corporation.[90] The Acting Deputy Commissioner of INS stated she was surprised such a publication existed, but assured the Chairman that "we are quite confident that the security of that production process (ADIT) is intact."[91] Following the September hearing, a copy of the Mitre Report was provided to INS. In December 1982, the agency commented in a letter to Senator Roth that "INS does not believe that the Mitre Report is a 'how to' guide for producing an ADIT card * * *. Rather view it as a document which describes generally the tools and techniques which can be utilized by those seriously concerned with secure, workable identification systems as INS has been."

4. Leaving with the benefits

The fraud resistsance of alien registration cards is but one issure addressed by the Subcommittee during its year-long examination. Another issue is INS' inability to verify the status of aliens for benefit-disbursing agencies on a routine basis similar to the cooperative project between the Illinois Attorney General and the INS Chicago district office. Social Security Administration managers, too, report that INS is unable to verify the alien status of social security card applicants within a reasonable period of time, except a limited test basis as in the Denver and Boston regions.

Finally, the Subcommittee staff reviewd the procedures which are supposed to ensure that apprehended and deported aliens do not continue to receive benefits or gain re-entry to the U.S.

Apprehended aliens usually leave the U.S. under conditions of voluntary departure—820,357 did so in 1981. But, INS does not include the names or identifying information of those departing voluntarily in its intelligence system to alert border inspectors should any of these persons seek to return.

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[89] The Mitre Report may be found in the Subcommittee's files.
[90] Hearing, p. 114.
[91] Ibid.

American consular officers overseas should be notified each time INS returns an alien who has violated the terms of his/her visa. Additionally, anyone traveling to the U.S. with a visa who is not admitted by INS should be entered into both the State Department's and INS' intelligence systems. The Subcommittee staff was informed by INS that this information is not entered into the agency's look-out system, and the State Department acknowledged that this information reaches its consuls sporadically. The result is that an alien who has been denied entry to the U.S. or who is asked to depart could go to another overseas consul, obtain a new visa (possibly in an unmarked passport), and gain entry to the U.S. since no record of any previous action exists either at the point of visa issuance or at U.S. ports of entry.

Another category of aliens—those who engaged in major crimes while in the U.S. or who are recidivists—can be ordered formally deported from the U.S.[92] In 1981, 16,654 aliens were formally deported. The names of these individuals are supposed to be included in the INS intelligence system.

PSI's investigation showed that not even this regulation has been followed by INS. The Oseme case [93] clearly demonstrates an instance of an illegal alien who, although indicted for federal benefit fraud and deported from the U.S., had not been entered into the INS look-out system. The State Department learned of the Oseme case and alerted the appropriate consuls when informed of the case by the Subcommittee staff, not by INS. Of note is Ambassador Asencio's testimony that the State Department wants to be notified by INS of all alien deportations.[94]

Likewise, the Social Security Administration informed the Subcommittee that it infrequently learns of voluntary alien departures, and this its actions to determine whether departees should have their benefits terminated are haphazard. Furthermore, by regulation aliens who are formally deported by INS should not be receiving social security benefits after deportation.[95] But until INS routinely exchanges data on deportations other agencies cannot terminate benefits. According to its Acting Deputy Commissioner, INS is in the process of automating its records so as to facilitate the exchange of deportation information.[96]

B. THE SOCIAL SECURITY ADMINISTRATION

Since passage of the Social Security Act in 1935, over 250 million social security cards have been issued. The Social Security Administration has historically viewed the social security number as an administrative accounting number and the card as a method of conveying that number to the cardholder. Although substantial changes have been made over the years with respect to use and public perception of the social security card and number, SSA has been slow to accept these changes. The agency's response, in the form of operational and policy procedures, has been consistently tainted with a "1935" approach to its problems.

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[92] 8 U.S.C. § 1251(a)(4).
[93] See footnote 61, supra.
[94] Hearing, p. 130.
[95] 42 U.S.C. § 402(n)(1).
[96] Hearing, p. 115.

Use of the social security number as a means of personal identification has extended far beyond its original purpose, to become in the words of SSA Commissioner John A. Svahn, "* * * the most frequently used identifier in the country." [97] The Federal government uses the number as an identifier in tax, welfare, and debt collection programs. In many cases, by law or regulation, it must be provided to gain employment, to open a bank account, to enroll in college, or to register to vote. Additionally, under Federal legislation in effect since 1976, any state may use the social security number to administer tax, welfare, driver's license or motor vehicle registration laws within its jursidiction.[98]

SSA's policy during the early years of its program was to issue numbers based only on an individual's statement about his/her name, place of birth, and parents' names. Since 1978, social security numbers are issued under tighter procedures. Now, all applicants for an original number must present documentary evidence of age, identity, U.S. citizenship or alien status, and applicants 18 years or older must undergo an in-person interview. The evidentiary documents of identity and citizenship that SSA relys on are the U.S. passport or visa, alien registration cards, driver's license, and birth certificates.[99]

SSA recently began a program with the assistance of INS to train its clerks to make determinations regarding the genuineness of evidentiary documents. Both the General Accounting Office and SSA's Inspector General have criticized the evidence certification process as one lacking in controls and supervision.[100]

Applications for social security numbers can be processed at SSA district offices, SSA "hospitality centers," and state welfare offices. "Hospitality centers" are usually established in schools or city halls to assist individuals who find it difficult to travel to an SSA office. In 37 states, local welfare office clerks process applications for social security cards without benefit of any training in document fraud detection. Under a cooperative agreement with the states, SSA allows welfare offices to review evidentiary documents and accept applications for beneficiaries who need a social security number in order to be eligible for aid. But the state welfare offices will not be participating in SSA's new training program in document fraud detection.

Fraud detection and prevention falls to the SSA program integrity division with its approximately 120 investigators located throughout the country. Abuses of social security benefit programs are also investigated by this division.[101] From the Subcommittee's review of

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[97] Hearing, p. 119.

[98] See "Historical Development and Legal Restrictions on the Use of the Social Security Number," by Allison I. Porter and Patricia R. Hennessey, Congressional Research Service of the Library of Congress, January 27, 1982, pages 8–10. Also, the Federal Register, May 5, 1982, Vol. 47, No. 87, pages 19468–19470.

[99] 20 CFR 422.207(b)–(d).

[100] See "A Review of the Social Security Administration Social Security Number Issuance System," Office of the Inspector General, U.S. Department of Health and Human Services, February 1, 1981. GAO Report HRD–81–20: "Reissuing Tamper-Resistant Cards will not Eliminate Misuse of Social Security Numbers," December 21, 1980.

[101] SSA administers the following programs: Retirement and Survivors Insurance, Disability Insurance, Supplemental Security Income, Aid to Families with Dependent Children, and Black Lung Benefits. According to the HHS/IG Annual Report of 1981, it cost over $173 billion to operate these programs during FY 82. There is no estimate as to the amount of money drained from SSA programs due to fraud and abuse. SSA Commissioner Svahn provided the following response to the Chairman's question about the extent of fraud in SSA programs:

> Commissioner SVAHN. We have no evidence of a problem with people trying to obtain Social Security benefits using false identification. Based on intensive checking

closed cases, it appears that the program integrity staff has jurisdiction over singular instances of fraud and program abuse, while the Inspector General handles cases involving large-scale schemes and employee malfeasance cases.

The Subcommittee staff was told by SSA field agents that there has been little guidance from SSA headquarters to the district offices on how to control fraud and misuse of the documents.[102] Field agents expressed concern about:

Lack of proper controls over blank social security card application forms;

Lack of law enforcement authority (agents have no arrest authority and cannot carry weapons); and

Lack of management incentives for employee detection of social security card or program fraud.

1. SSA regional initiatives

In the absence of guidance from SSA management on how to control fraud and abuse, several district offices have set up ad hoc procedures to detect fraud before social security cards are issued. For example, a June 1981 bulletin was distributed to all social security district offices in the Boston region listing 33 separate serial numbers identified by INS as appearing on counterfeit alien registration cards (I–151). These cards were known to have been fabricated in California. In the Roxbury, MA district office a clerk placed a bulletin on her desk and found that her first applicant of the day produced a counterfeit I–151 with one of the listed serial serial numbers. INS was called and the illegal alien was apprehended. This same situation has been repeated many times.

In another initiative, a New York social security office reviewed Puerto Rican birth certificates and found that 30 percent of all the certificates submitted in support of social security card applications were fraudulent. As a result, the New York region incorporated a procedure to verify all Puerto Rican birth certificates prior to social security card issuance.

In the Denver region the SSA district office, working in cooperation with INS and the HHS Inspector General's office, implemented a procedure to verify alien registration cards before social security cards are issued. By holding the documentation presented in support of a social security card application, SSA first verifies that the applicant is a lawfully admitted alien by checking the veracity of the immigration documents with INS. Initial results of this pilot project indicate that 50 percent of all INS "green cards" presented are fraudulent.

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of a sample of old-age, survivors and disability cases over a number of years, we found only one case of inaccurate identity. This indicates that there is a very small chance, on a statistical basis, of a problem with fraudulent identity in the regular Social Security programs. In the Supplemental Security Income program, our studies have shown that there are significant problems with other types of misrepresentation such as concealed bank accounts, but that the use of inaccurate identity is almost as low as in the Social Security benefit programs. In regard to AFDC, the Senates have the responsibility for both identifying and prosecuting fraud of all types. Although there have been numerous cases of a person using multiple identities to obtain AFDC benefits or using their correct identity to obtain benefits in more than one jurisdiction at the same time we do not have aggregate data on the total amount of AFDC benefits obtained through use of false identifications. (Hearing, p. 125.)

[102] See, for example, PSI staff interview of Dennis Morse, HHS field agent, and Christopher Shenk, SSA investigator on December 4, 1982, in Boston, MA. (found in the Subcommittee's files).

These SSA field offices are to be commended for their individual initiatives. The Subcommittee urges SSA management to consider adopting these programs on a nationwide basis.

2. Nonwork social security numbers

Since the passage of the Social Security Act of 1972, SSA has been issuing social security cards to legal aliens authorized to work in the U.S. In 1974, SSA began issuing a non-work social security card to visitors and other temporary resident aliens who might need the social security card to open a bank account or enroll in school. The cards and numbers for non-work purposes are identical to those issued to U.S. citizens, as acknowledged by Commissioner Svahn at the hearing:

> * * * It wasn't until I was in a local social security office recently and asked them how many applications the files have for social security numbers for legal arients that I found out we are issuing approximately a thousand cards a week to such aliens. I asked if those cards are any different than the regular cards and they said no. * * * [103]

According to the Office of Inspector General of the Department of Health and Human Services, SSA has not provided any deterrent to non-work social security numbers being used to gain employment. Instructions to the field offices for issuing these numbers are unclear—this is particularly troubling in view of the 1300-percent increase in the number of non-work cards issued over the past six years.[104]

By examining a sampling of social security card applications for the last quarter of 1979, the Inspector General found in February 1981 that in two cities studied, New York and Washington, almost half of those obtaining social security numbers were aliens. Of the social security numbers issued, 12 percent were issued as work authorization numbers when in fact INS records did not indicate the aliens were authorized to work. INS could find no record at all for 8 percent of the aliens who were issued numbers. Another check revealed that one-third of all those issued non-work social security cards had earnings posted to their summary earnings records. Prior to 1976, SSA would notify INS of all non-working number accounts which had earnings passed against them. This would indicate that an alien was illegally working within the United States. However, based upon an abundance of caution and an erroneous interpretation of the Tax Reform Act of 1976, SSA halted this procedure in 1976. It took SSA and the Internal Revenue Service six years to conclude that this kind of information sharing did not violate the Act. Based on this new interpretation, SSA recently began providing this information to INS once again.[105]

3. Sending good money after bad

As a corollary concern, many aliens who work here illegally will be eligible to collect retirement benefits once they return home because, as SSA program administrators explained to the Subcommittee staff, a payee into the system regardless of status—in entitled to retirement

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[103] Hearing, p. 121.
[104] "A Review of the Social Security Administration Social Security Number Issuance System," Office of the Inspector General, Department of Health and Human Services, February 1, 1981.
[105] Hearing, p. 120.

benefits.[106] Currently, almost $1 billion is sent overseas annually to SSA beneficiaries. At least 52% of all money sent overseas is received by aliens and their dependents. It is unknown how many worked in the U.S. illegally. Of equal concern is the fact that there are no sanctions against overseas beneficiaries who furnish false information, fail ot report events bearing on their continuing entitlement, or conceal information in order to obtain or increase benefits.[107]

Another concern is the continued payment of social security benefits to aliens subsequent to their deportation from the United States. In March 1982, the OIG/HHS conducted a limited review of the SSA alien nonpayment system.[108] The IG found that suspension of benefits to deported aliens often did not occur because of weaknesses in the system of notification between INS and SSA—there exists no system of reconciliation of the deportation notices sent by INS and those received and processed by SSA. Additionally, the study revealed that some two-thirds of the deportation notices received did not contain accurate and complete information. The OIG/HHS reviewed a sample of the SSA records for deported aliens whose benefits had been denied or suspended and found that of the 75 cases reviewed, 23 reflected erroneous payments totaling over $111,000. While INS records indicate that 16,654 persons were deported in 1981, the SSA computer records show only 576 deported aliens have had their benefits denied or suspended.

In early 1982, SSA adopted a proposal to add the legend "NOT VALID FOR EMPLOYMENT" on the fact of the non-work social security cards. SSA rejected, however, a recommendation to uniquely identify social security numbers issued for non-work purposes. Therefore, the non-work social security number will remain identical to all other social security numbers.

The ease with which the social security card can be counterfeited was summed up by Newton Van Drunen at the June hearing: "On a scale of '1 to 10' the social security card is a "1"; it is just extremely simple to reproduce."[109] SSA has never denied this fact but until recently no efforts were made to improve the security features of the card.

On August 13, 1982, Senator Daniel P. Moynihan introduced an amendment to the Immigration Reform and Control Act of 1982 (S. 2222) to provide that new and replacement social security cards be printed on tamper-proof banknote paper. Mr. Moynihan's arguments for a more secure card rested on PSI's work on the fraudulent uses of federal identity documents to penetrate federal benefit programs. The Subcommittee staff statement and the testimony of Newton Van Drunen were introduced by Senator Moynihan for the Congressional Record. However, upon receiving a pledge from the SSA Commissioner that all new and replacement cards will be printed on tamper-proof stock beginning about January 1983, Senator Moynihan

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[106] Staff interview with SSA administrators in the Divisions of Program Integrity and Enumeration, on April 8, 1982, at SSA headquarters in Woodlawn, Maryland (found in the Subcommittee's files).

[107] Letter report from the Congressional Research Service to PSI staff, October 6, 1981; and "Report of Validation Survey—Mexico," Office of Central Operations, Division of International Operations, SSA, September 4, 1981, page 2.

[108] Letter report dated March 25, 1982, from the Office of the Inspector General/HHS to the SSA Commissioner.

[109] Hearing, p. 16.

withdrew his amendment. SSA Commissioner Svahn later told PSI that the only benefit to improving the card's resistence to tampering would be increased durability and reduced costs associated with card reissuance:

> Senator COHEN. You used the word "counterfeit resistant". * * * What you are saying is, you will make social security cards harder to produce, but they won't necessarily be counterfeit proof?
>
> Commissioner SVAHN. That is correct, more counterfeit proof than the current card. There are various levels of security which you can build into the printing process.
>
> Senator COHEN. On the one hand, you make it a little more difficult to reproduce the card, but on the other hand it really doesn't make that much difference if you don't reform the procedures to get a social security number, does it?
>
> Commissioner SVAHN. That is absolutely correct, Mr. Cohen.[110]

4. The number is the key

Senator Cohen's point is well taken, since it is apparent that a problem of greater magnitude is that social security numbers are too easy to acquire legitimately—often in multiple—and that the numbers themselves cannot be verified by other agencies which rely upon it, due to SSA's interpretation of Privacy Act restrictions.

The number issuance system does not have an audit trail capability to easily link the card issued with SSA's storage record. No identifying code is printed on the card or SSA record. This means that any imposter can use someone else's real social security number.

But the primary flaw in the numbering system that makes it so vulnerable to fraud is SSA's position that, under the Privacy Act and with its limited computer capability, the agency is severely limited in its ability to verify or validate social security numbers used by recipients in federal and state benefit programs. Thus, abusers can use virtually any nine-digit number to obtain benefits from any agency with the assurance that bogus numbers will sail through the system. In response to Senator Cohen's question at the June hearing as to what type of investigation is made to determine whether or not a social security number has been secured through fraud, Commissioner Svahn admitted that SSA does not do any investigation of cases involving a fraudulent securing of a social security number.

> Senator COHEN. What sort of investigation do you make to determine whether or not a number has been secured through fraud? Do you have any current investigations into fraudulent procurement?
>
> Commissioner SVAHN. I do not believe that we have in the past done any ongoing investigation of a fraudulent securing of a social security number * * *. The reason we haven't concentrated on fraudulent procurement of SSN's is because we have over the years had instances of people reporting in on a lot of different numbers. The issue has come up about illegal aliens. We know that we must have illegal aliens reporting

[110] Hearing, p. 122.

work on non-existent numbers or taking somebody else's number and reporting on that number.[111]

To further illustrate, the Subcommittee staff learned that the Agriculture Department's Inspector General requested a validation match of 750,000 social security numbers used by food stamp recipients in Illinois. SSA found that 130,000 numbers were invalid. Although it had the capacity to do so, SSA would not disclose the reason why a particular number was invalid. In the end, the Inspector General was no closer to knowing whether there are 130,000 bogus numbers used in the Illinois program, whether multiple numbers were cross-referenced for the same individuals, or whether the problem is simply one of number transpositions or other data entry errors.[112] In fact, Commissioner Svahn acknowledged this situation at the hearing:

> * * * Just the other day, I was told that our people have been refusing to give the Agriculture Department information regarding the names and social security numbers of food stamp recipients because Agriculture "wasn't involved in any income security program."
>
> If that is true I think it is just ridiculous and a little bit bureaucratic. We will be supplying appropriate information to Agriculture. I think there is a lot we can do ourselves in the executive branch to bring the balance into focus.[113]

SSA's uncooperative stance with respect to inter-agency information sharing is all the more absurd in view of the fact that SSA automatically verifies social security numbers before it issues social security benefits. Yet it will not notify other agencies which administer similar benefits of bad numbers identified or instances in which a legitimate number is used by an imposter.

SSA is in a unique position to cooperate more closely with administrators of other benefit programs—it is both an agency which issues an identity document as well as one which administers federal benefit programs. Yet, SSA officials continually expressed their concern to the Subcommittee staff that referring social security number information to the Inspectors General of other agencies would require money and manpower and would detract from SSA's other program functions.

At the June hearing, Dan Lane of the HHS Office of the Inspector General recommended:

> * * * that when we in our investigations, as well as other agencies, uncover social security numbers of people who are deceased, people who created fictitious identities, illegal aliens who fraudulently obtained the card, or nonimmigrant aliens who are not entitled to benefit programs, that a system be created to have a record of these numbers. This information should be given to every agency that pays Federal benefits or issues driver's license * * *. Right now there is no system in the Federal government to utilize this information.[114]

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[111] Hearing, p. 123.

[112] See correspondence between the U.S. Department of Agriculture Office of Inspector General and the Social Security Administration's Director of the Office of Enumeration and Earnings Records (August and September 1981) contained in the Subcomittee's files.

[113] Hearing, p. 121.

[114] Hearings, p. 75.

And INS Special Agent Walt Hempel, a co-developer of the Project Baltimore investigative concept, noted:

> * * * I would like to see more of this type of cooperation. Agencies develop tunnel vision * * * and sometimes they pass up a very good case because they can't make the case on their own violation. By working together in other agencies, we are able to catch the criminals and prevent violation of * * * any law if that is what it takes to convict these people.[115]

By the time of the September hearing three months later, SSA Commissioner Svahn demonstrated a willingness to rethink his agency's previous position on information sharing:

> * * * Mr. Chairman, as a result of my preparation for this hearing, we are currently reviewing our entire disclosure policy. Several issues come to light in which I think we are not disclosing information that should be disclosed to other agencies for purposes of law enforcement * * *[116]

Chairman Roth requested that the Subcommittee be provided with the results of SSA's study of its disclosure policy and information sharing efforts with other agencies.[117]

C. THE STATE DEPARTMENT

1. Investigative responsibility is disjointed

Within the State Department three divisions—the Bureau of Consular Affairs, the Office of Security, and the Office of the Inspector General—share responsibility for all matters related to United States passports and visas. The Subcommittee's inquiry showed that passport and visa issuance may operate smoothy under this division of responsibility, but investigation of passport and visa crimes is so disjointed that it is ineffective. Compounding the Department's division of investigative authority is a permeative attitude that the State Department should not involve itself with any law enforcement activities.

The Bureau of Consular Affairs has jurisdiction over passport and visa fraud investigations. Abuses which involve State Department personnel are investigated by the Office of Inspector General. Yet, there is no internal procedure to ensure that employee malfeasance leads developed during the counse of an inquiry handled by the Bureau of Consular Affairs are referred to the Inspector General.

For his part, the Inspector General interprets his investigative mandate rather narrowly to include only those passport and visa crimes in which a Department employee plays a role.[118] As a result, the expertise of his office, as well as its resources and authority, are not used in the investigation of complex or far-reaching fraud schemes

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[115] Ibid.
[116] Hearing, p. 117.
[117] Hearing, p. 125.
[118] See the State Department's Foreign Affairs Manual, Volume 1, pages 116–116.2b, section 135.2. Also, see the testimony (Hearing, page 269) of Inspector General Brown wherein he responds to the Chairman's question about Inspector General resources committed to investigating fraudulent statements made by visa applicants, by stating: "The Bureau of Consular Affairs has responsibility for combatting visa fraud and the Inspector General only becomes involved where employee malfeasance is concerned. Therefore, I defer to the Assistant Secretary for Consular Affairs to respond to this question."

if Department employees are not involved. Such an interpretation of Inspector General investigative mandate does not allow for the broad range of responsibilities assumed by other agency Inspectors General,[119] and runs counter to the legislative intent of Inspector General functions required of the State Department in the Foreign Service Act of 1980.[120]

Because the Department's Inspector General has no criminal investigators on his staff, passport and visa malfeasance investigations are "contracted out" to the Office of Security. Collaboration between the Office of the Inspector General and the Office of Security is based upon an inter-office support agreement signed in September 1981. Under that agreement, the Office of Security's worldwide network of security agents is available to conduct passport and visa malfeasance investigations for the Inspector General. By his own admission, however, the Inspector General does not retain operational authority over the investigation once it is given to the Office of Security.[121] In the period since the agreement between the two offices has been in effect, 61 visa malfeasance allegations have been referred for investigation, resulting in the termination of 16 foreign nationals and the prosecution and conviction of a former foreign service officer.[122] It should be noted that the conviction of this officer stemmed from a 1979 investigation in which he was cleared of visa fraud charges. This employee resigned from the Department four years prior to his 1982 conviction.[123]

The primary mission of security officers assigned overseas is the protection of U.S. personnel, facilities, and information. While some general fraud investigations are conducted at the request of the Inspector General or an ambassador, this is a minor portion of the agents' overall workload. According to the State Department, no data concerning man-years spent on passport and visa crime investigations overseas is available.

2. Law enforcement techniques lacking

Allegations of visa fraud by State Department employees overseas are extremely difficult to investigate.[124] Without question, foreign service officers and foreign national employees are potentially vulnerable to corruption—particularly so because the controls over embassy supplies, equipment, and procedures to issue visas are weak. Yet, there is no investigative program to detect and eliminate employee participation in visa fraud. Jack Island, an ex-State Department agent who now works for another federal law enforcement agency, told the Subcommittee that his attempts to make a controlled visa buy from a suspect employee were initially discouraged by his supervisors, that the Office of Security does not have funds to make undercover purchases, and that the undercover buy, when it was finally made, actually jeopardized his investigation because procurement of electronic equipment needed to record the buy was processed through routine embassy

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[119] See section 6 of the 1978 Inspector General Act (5 U.S.C., App. Sec. 6).
[120] See section 209 of the Foreign Service Act of 1980, P.L. 96–465.
[121] Subcommittee staff interview with Inspector General Robert Brown, March 1982 (found in the Subcommittee's files).
[122] Hearing, p. 128.
[123] On August 12, 1982, the former foreign service officer who had served as a consular officer in Nassau, was sentenced by the Federal District Court in Miami to serve a year in prison (9 months suspended), five years on probation, and required to pay a $10,000 fine for conspiracy to defraud the United States Government.
[124] Hearing, p. 137.

channels.[125] Mr. Island, who also stated he was refused permission to conduct physical surveillance of malfeasance suspects, commented:

> This particular case, as with most bribery cases worked by the State Department, never developed to the point of prosecution because of the difficulties in gathering evidence. Additionally, my counterparts in the U.S. showed a disinterest in pursuing leads that I sent to them for domestic investigation.[126]

Another hindrance to investigating malfeasance overseas is that foreign service officers themselves—not security agents—investigate visa fraud crimes, so useful leads connecting embassy employees with local fraud rings or visa brokers may go undetected, or be compromised from the outset. This is another example of how the Department's artificial separation of investigative authority produces little more than muddled procedures.

Between 1977 and the IG/Office of Security agreement of September 1981, six cases against foreign service officers had been submitted for federal prosecution, resulting in the conviction of one foreign service officer who took an estimated $75,000 in bribes in Haiti.[127] No statistics are kept on the number of foreign national employees who are locally prosecuted or disciplined for visa crimes.

In the U.S., Office of Security agents provide protective services to the Secretary of State, protect U.S. diplomats and diplomatic visitors to the U.S., perform background checks on presidential appointees, and investigate general fraud as well as passport/visa fraud. There are 130 agents assigned to domestic field offices and 194 agents assigned to the headquarters office. According to the State Department, of the inordinately large number of agents assigned to headquarters, 35 are assigned to the Secretary's protective security detail, nine to the United Nations detail in New York, and nine are associated with foreign dignitary protection.[128] Others on the headquarters staff perform such diverse support functions as security engineering, threat analysis, and manning of a 24-hour Command Center. Conversely, only three agents have been devoting their full attention to the passport and visa malfeasance/fraud area.

In response to questioning from Chairman Roth, the State Department reported that every agent receives a minimum of 79 hours of training in criminal investigations. But the Department's information about the type of training its agents receive belies its commitment to aggressive combat of fraud and malfesasance: of the 79 hours of training, agents spent 58 hours on personnel background investigations (73%) and only 21 hours on criminal investigations (27%).[129]

3. Recent developments in the department's anti-fraud efforts

During the year of the Subcommittee's inquiry, the Office of Security received additional funding to be used to refer routine personal investigations to the Office of Personnel Management. This reduction in workload is expected to save 32 work-years annually which will be diverted to criminal investigations. Additionally, the Office of Secu-

[125] Hearing, p. 57.
[126] Hearing, p. 58.
[127] *United States* v. *Carolyn J. King* (D.S.C., 1978).
[128] Hearing, p. 137.
[129] Hearing, p. 138.

rity now requires new agents entering on duty to attend the federal criminal investigator training course at the Federal Law Enforcement Training Center. And, under a headquarters reorganization plan which was implemented in September 1982, there will be eight officer positions dedicated to investigating passport and visa fraud as well as nine agent positions dedicated to conducting general fraud and consular malfeasance investigations.[130]

While this reorganiaztion should result in more aggressive pursuits of passport and visa crimes, the Subcommittee notes these changes were implemented to comply with certain requirements of the Foreign Services Act of 1980 concerning the conversion of criminal investigators to civil, rather than foreign service, status wherever possible. Lastly, although the State Department told Chairman Roth "currently it appears that the Office of Security has sufficient resources for conducting these investigations," there was an acknowledgement that more resources would be required if the passport and visa fraud workload increases more than anticipated.[131] As set forth below, the State Department has not aggressively sought to halt fraud in the past. An aggressive program to identify fraud should turn up a much greater number of fraudulent applications and therefore require greater resources.

4. Passport fraud

The U.S. passport is an internationally recognized document that is accepted as prima facie evidence of identity and citizenship. Fraudulently-obtained passports and counterfeit or altered passports lend credence to criminals assuming false identities for any number of reasons including smuggling narcotics and circumventing currency reporting requirements.

The Department makes some attempt to inform its passport agents of ways to detect fraud, but postal agents and clerks of court who process and accept passport applications and examine supporting documentation do not receive fraud awareness training. All suspected fraud cases are screened by the Evaluations and Standards Division within the Department's Office of Passport Services. This Division is staffed by a director and seven paralegal assistants, although several years ago a staff of 40 assisted in combating passport fraud.

The State Department has occasionally estimated that one percent of passport applications are fraudulent.[132] Using that percentage, 30,000 applications of the three million submitted yearly should be rejected. Yet, Department statistics provided to the Subcommittee reveal that only an average of 900 passport fraud cases a year have been detected since 1977. The Department's Assistant Secretary for Consular Affairs testified at the hearing:

> Mr. ASENCIO. The only figure that I have that I put any credence in is the fact that, for instance, we have been hitting passport fraud cases at the rate of about 1,000 a year, a little more, a little less, for several years, even curiously and interestingly with intensified antifraud procedures. I would say that is a great number, but obviously the correlation be-

[130] Ibid.
[131] Ibid.
[132] See GAO Report iD–81–39: "Management of the Department of State Office of Passport Services Needs to Be Improved," August 6, 1981.

> tween that and the 1 percent is so immense that it boggles the mind. Obviously there has to be more, but that is what we are dealing with.[133]

However, the General Accounting Office recently commented that the number of passport frauds detected is just the "tip of the iceberg." [134]

Since the Evaluations and Standards Division does not initiate its own follow-up investigations, the Division tries to get the State Department's own Office of Security, or INS, DEA, FBI or Customs to investigate passport fraud cases, depending upon the existence of any other violations within the investigating agency's jurisdiction. Passport fraud cases that cannot be satisfied for investigation are simply closed, and no information concerning the case is disseminated to any law enforcement agency.

In the last two years INS has been unable to provide investigative assistance to the Department, and the FBI has declined to accept responsibility for cases other than those in which an imposter assumes the identity of a deceased citizen.

Staff of the Division informed the Subcommittee in August 1981 that a one-time agreement had been entered into with the Customs Service for that agency to assume responsibility for 300 suspected passport fraud cases. A check with the Customs Service in March 1982 disclosed that only 12 cases had been forwarded for investigation by the Division. In September 1982, a second check was made with the Customs Service which revealed that fewer than 50 cases had been referred by the Department. The explanation, according to the State Department, is that Customs does not wish to receive previously pending cases, but prefers instead that field offices obtain "fresh (i.e., day of detection)" cases directly from passport agencies around the country.[135] Apparently, the Department's backlog of suspect passport fraud cases will never be investigated by a law enforcement agency under this arrangement.

It was just this type of case—suspected passport fraud which was not investigated by a federal law enforcement agency—that the Subcommittee staff included in its own sampling to examine the use of false identification in federal benefit programs. PSI's survey showed that 40% of the identities used on fraudulent passport applications may have already been identified in Customs' lookout system as having been involved with a variety of crimes related to drugs and weapons smuggling, immigration law violations, currency violations, or flights from justice. Although these applicants were denied a passport by the State Department, the government lost the opportunity to fully identify or apprehend the criminals because the Department never sent these cases to a law enforcement agency to be fully investigated.[136]

5. Untapped resources

No agreement has ever been worked out with the U.S. Postal Service for that agency to investigate passport fraud in which the U.S. mails are used. Likewise, the Secret Service has never been asked to lend support in the investigation of passport fraud or counterfeiting. At

[133] Hearing, p. 132.
[134] Op. cit.
[135] Hearing, p. 139.
[136] Hearing, p. 111.

the suggestion of this Subcommittee, the Secret Service made an offer to the State Department to assume a greater role in the investigation of passport frauds. Three months after the offer was extended, the Department turned it down in favor of having its Office of Security investigate all cases of suspected passport fraud referred to it.[137] Given the low priority passport fraud cases have historically received in the Office of Security, and the office's lack of professional forensic skills, the Subcommittee is skeptical the office can adequately investigate even the minimal number of passport fraud cases detected each year.

In the past three years, the Office of Security has investigated approximately 100 passport fraud cases per year. The Subcommittee staff reviewed over 200 passport fraud cases investigated by the Office of Security over the last several years, and noticed little use of proactive investigative techniques—informants are not developed and cases are not expanded beyond the complaint if no specifics are revealed. Some cases amount to no more than checking for live birth certificates and upon finding none, closing the investigation. Other cases are closed because the Department has instructed security agents to terminate cases where they may suffer bodily harm as they have no authority to carry firearms while investigating these cases.

Jack Island, based on his experience as a security agent in the Los Angeles passport office, told the Subcommittee:

> Under the current system, State Department agents have only one way to avoid undue danger—to avoid passport investigations altogether. Coupled with (1) the low priority placed on this activity, (2) the lack of enforcement authority to effectively conduct any given criminal investigation, and (3) the internal requirement that only interviews and record checks be used as investigative techniques, State Department agents generally choose to disregard passport investigations. Only cursory attention is paid to them and they are closed out as unsolvable as soon as possible.[138]

One timely result of the Subcommittee's inquiry has been a State Department request to the Office of Management and Budget that it be authorized to seek legislation which would give agents of the Office of Security the right to arm themselves and arrest suspects during passport/investigations.[139]

Decisions as to which suspected fraud cases will be investigated, to which agency the investigation will be assigned, and which cases will be closed without the benefit of investigation, are all made by the program staff of the Evaluations and Standards Division. Trained criminal investigators are not making such determinations.

In response to questioning by Chairman Roth, the Department told the Subcommittee in October 1982 that "there is merit to the proposal that the Office of Security be given responsibility for making and tracking all cases referred to other law enforcement agencies. This would provide the Office of Security with the necessary data to conduct meaningful analysis of the overall caseload to identify trends, modus operandi, rings, etc. Discussions concerning this proposal are being

[137] Hearing, p. 139.
[138] Hearing, pp. 58–59.
[139] Hearing, p. 138.

held between the Office of Security and the Bureau of Consular Affairs." [140]

In the meantime, suspect passport applicants are the very individuals whose activities should be tracked because of likely involvement with narcotics, currency trafficking, and terrorism.

6. Visas—Fertile ground for fraud

Visas, when stamped in foreign passports, enable aliens to make temporary visits to the U.S. In the last six years, issuance of tourist and student visas to the U.S. has doubled.

There is no numerical restriction on nonimmigrant visas for tourists and students. The pressures to sinare one of these visas gives rise to tremendous lines forming outside consulates in Bangkok, Bogota, Hong Kong, Lagos, Manila, Port-au-Prince, Santo Domingo, and Seoul. These and other posts are ones which the State Department considers highly susceptible to fraud. Ambassador Diego Asencio testified in September that "attempts at fraud are endemic to visas. In some areas overseas, our refusal rates exceed 70 to 80%. In other areas, the fraud rate is less than 2%." [141] Applicant misrepresentations and photo substitutions in passports with valid visas are everyday occurrences. The visa itself and a "counterfoil" feature used with it in some countries have been successfully fabricated.

Screening an applicant desirous of a tourist visa is largely a subjective process. Consular officers must be satisfied that the applicant intends to leave the U.S. at the expiration of his temporary stay and has adequate financial resources for both the visit and the return home. Inherent problems with the visa screening process are:

Inadequate time for consular officers to screen applicants;

Inexperience of consular officers—new recruits in the Foreign Service serve first tours of duty on the visa issuing lines;

Delegation of visa issuance authority to foreign nationals and untrained temporary employees at the embassy—recently in Mexico City, two teenage summer employees obtained visas for aliens in return for drugs;

Pressure to issue tourist visas to host government "referrals" without screening applicant entitlements; and

Assignment of the screening process to local travel agents who check supporting documents and decide applicant eligibility.

Responsibility for visa fraud investigations rests with each embassy. Fraud trends, if analyzed locally, are not transmitted to an intelligence network. Investigative files are maintained at individual embassies. According to the Department, there is generally one foreign service officer and one or two foreign national employees assigned to the embassy's fraud unit. The extent of fraud investigations is usually limited to interrogating the applicant and taking a sworn statement. In Mexico City, the fraud unit has no travel funds so its ability to check birth records or make inquiries about applicants is hampered. The State Department does not issue guidelines to assure that adequate resources are devoted to fraud investigations at each post.

Applicants will present every type of document imaginable to prove their eligibility. The easy availability of spurious "authenticated"

[140] Ibid.
[141] Hearing, p. 134.

bank statements, property ownershp statements, letters verifying employment, and foreign civil documents leads consular officers to ignore documentation altogether in favor of making subjective decisions within the constraints of a three-minute interview.

*7. Lie, get caught * * * and get a visa anyway*

Yet, even if an applicant is caught using false documents or making false representations he can still get a visa.[142] Basing its policy on an interpretation of a 1961 Attorney General opinion,[143] the State Department does not consider misrepresentations of identity and eligibility to be material—unless the alien is excludable on the "true" facts or the misrepresentation "tends to cut off a relevant line of inquiry". Although such misrepresentation may be violations of two criminal statutes,[144] the State Department will still issue a visa if the applicant retracts the lie or it is deemed inconsequential. More than likely, the applicant will tell a better story the second time which will withstand the limited scrutiny of the consular officer.

Such misrepresentations would, in any case, make the alien liable for exclusion under another section of the Immigration and Nationality Act concerning crimes of moral turpitude.[145] But the State Department's stubborn stance in this area is often tantamount to condoning and ignoring the commission of felonies by visa applicants. Considering the degree to which the Subcommittee's hearings and other studies have demonstrated that a person seeking to enter the U.S. under false pretenses is also likely to attempt to fraudulently obtain benefits, the visa issuance decision becomes extremely important.

Furthermore, by allowing a visa applicant to recant a false material statement and present new information, the State Department itself may be failing to adequately consider the practical realities of the visa issuance process. The combination of time constraints placed upon consular officers, the State Department's official policy which places the burden of proof on the government rather than the applicant, and the agency's inadequate investigatory resources clearly results in the strong possibility that a great deal of false information presented to consular officers will be accepted.

After the Subcommittee's June hearing, Chairman Roth asked both the Attorney General and the State Department's Assistant Secretary for Consular Affairs to review this issue. The response from the Department of Justice noted "* * * the practice is not, and should not be, that any misrepresentation can be corrected." [146] However, no guidance was offered by the Attorney General as to how State Department officials should determine whether or not a statement is material and therefore misrepresentative.

The State Department has consistently maintained that its interpretive policy is necessarily cautious because a finding of fraud or misrepresentation can permanently exclude an alien from the U.S.

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[142] See volume 9 of the Foreign Affairs Manual for the State Department's interpretation of Subsection 212(a)(19) of the Immigration and Naturalization Act. Paragraph (19) of Subsection 212(a) concerns excludability of aliens triggered by fraud or misrepresentation of a material fact.

[143] In the *Matter of S— and B—C—*, 9 I. & N. Dec. 436 at 447 (1961).

[144] 18 U.S.C. § 1001 and § 1546.

[145] See Subsection 212(a)(9) of the Immigration and Nationality Act.

[146] Hearing, p. 146.

In its latest correspondence with the Chairman, the Department reiterated its position:

> On a superficial level, the Foreign Affairs Manual instructions on these points might appear to diminish the applicability of this provision of the law. The Department believes, however, that these instructions are consistent with the requirement under Section 212(a)(19) that willful misrepresentation be material in order for ineligibility under that section to result * * *.[147]

V. Immigration Reform in the 97th Congress

Throughout the Subcommittee's hearings it was readily apparent that identification related issues are an integral part of current Congressional and Administration efforts to reform immigration laws.

Major bills to reform U.S. immigration law and policy were considered by the 97th Congress. Specific issues of concern are control of illegal immigration and the related issues of worker immigration and mass arrivals by sea including adjudication procedures and asylum.

The last extensive congressional review of U.S. immigration policy was in the mid-1960's. This led to the enactment of major amendments to the Immigration and Nationality Act of 1952 (8 U.S.C. 1101 *et seq.*), which, as amended most recently by the Refugee Act of 1980, remains the basic law governing U.S. immigration and refugee policy.[148]

In the 97th Congress, immigration was the subject of the final report of the Select Commission on Immigration and Refugee Policy, the Reagan Administration proposals announced July 30, 1981, an Administration bill introduced on October 22, 1981,[149] and extensive joint and separate hearings by the House and Senate judiciary immigration subcommittees. Legislation making remedial amendments to the Immigration and Nationality Act,[150] and restricting alien participation in Federal assistance programs has also been enacted by the 97th Congress.[151]

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[147] Hearing, p. 139.

[148] "Immigration Issues and Legislation in the 97th Congress," by Joyce Vialet, The Library of Congress, Congressional Research Service, No. IB81162, September 27, 1982, p. 1.

[149] The "Omnibus Immigration Control Act," was introduced as S. 1765 by Senate Judiciary Chairman Strom Thurmond, and as H.R. 4832 by House Judiciary Chairman Peter Rodino.

[150] The "Immigration and Nationality Act Amendments of 1981" was signed into law as P.L. 97-116 (95 Stat. 1611) by President Reagan on December 29, 1981. Referred to as the INS Efficiency Act, this legislation clarifies and repeals some INS procedures. It is also intended to reduce the number of private bills handled by Congress by the remedial amendment of several of the provisions frequently addressed by such bills.

[151] Provisions limiting alien participation in assisted housing, the Aid to Families with Dependent Children (AFDC) program, the Food Stamp program, and Legal Services have been enacted.

a. *Public Housing.*—Section 329 of P.L. 97-35 (H.R. 3982), the Omnibus Budget Reconciliation Act of 1981, includes amendments to the Housing and Community Development Act of 1980 prohibiting the Secretary of HUD from making financial assistance available for the benefit of nonimmigrant aliens who have not been lawfully admitted.

b. *Aid to Families with Dependent Children (AFDC).*—P.L. 97-35, in section 2320 of title XXIII, includes legislative requirements for alien participation in the AFDC programs authorized by title IV-A of the Social Security Act. Additionally section 2320 provides that immigrants who apply for AFDC benefits will be deemd to have a portion of the income and resources of their immigration sponsors available for their support for a period of three years after their entry ito the United States.

c. *Food Stamps.*—P.L. 97-98, the Agriculture and Food Act of 1981, amends section 5 of the Food Stamp Act to provide a restriction similar to the AFDC one discussed above.

d. *Legal Services.*—Under P.L. 97-92, Further Continuing Appropriations for fiscal year 1982, section 101(h), Legal Services funds may not be used for or on behalf of aliens known to be in the United States in violation of U.S. immigration laws.

The Administration's proposals and major portions of its bill, as well as the recommendations of the Select Commission on Immigration and Refugee Policy, are reflected in identical companion bills entitled the "Immigration Reform and Control Act of 1982" (S. 2222/ H.R. 6514). The Simpson-Mazzoli bill, as it is called, was introduced on March 17, 1982 by Chairmen Alan K. Simpson and Romano L. Mazzoli of the Senate and House judiciary immigration subcommittees. S. 2222 passed the Senate on August 17, 1982 by a vote of 80 to 19. H.R. 6514 was ordered reported by the full House Judiciary Committee one month later. During the lame duck session of the 97th Congress, H.R. 6514 was debated by not voted on. It is expected that the Simpson-Mazzoli bill will be re-introduced in the 98th Congress.

The worker identification provisions of S. 2222, as passed by the Senate, touch directly on issues raised during PSI's examination of federal identity documents. Specifically, Title I of S. 2222 would amend the Immigration and Nationality Act to prohibit the knowing employment of unauthorized aliens, and establishes a graduated series of civil and criminal penalties for violations.[152] To comply with the verification procedures, a person seeking to work in the U.S. must attest to his/her work eligibility by presenting to the prospective employer:

1. A United States passport, social security card, or a U.S. birth certificates; and
2. an INS I–551 (ADIT) card, a driver's license, or a state-issued photo identification card.

The Senate bill provides for reliance on existing forms of identification for the first three years after enactment, and generally directs the President during this period to create a secure system of worker identification so that:

1. The system will reliably determine that a person's identity is legitimate;
2. If the system is to rely upon a document, that document must be resistant to counterfeiting and tampering;
3. The personal information within the system will only be available to the government and the employers to verify that a person is not an unauthorized alien;
4. The system will protect the privacy and security of the personal information;
5. The system will not be used for law enforcement purposes (except for enforcement of the Act or crimes relating to misuse of the visa, passport, and INS documents);
6. The card or document, if required, need only be presented at time of hiring and need not be presented or carried for any other purposes;
7. Existing federal and state identification systems will be examined within the system authorized by the Act.

The employer sanctions provision of both S. 2222 and H.R. 6514 would be uniformly applied to all employers as well as to those persons who for a fee recruit or refer undocumented aliens for employment. The penalties are prospective and will apply only to acts of em-

[152] See S. 2222, title I, section 101—"Control of Unlawful Employment of Aliens". Title I, section 102, amends S. 1546 of title 18, U.S.C. to increase the fine from $2,000 to $5,000 for the fraud and misuse of immigration-related documents.

ployment, referral, or recruitment that take place after the enactment of the legislation. *In order to assist employers* in meeting their responsibilities under this legislation, both bills require the Attorney General to develop and disseminate forms to be executed by employers as well as the person employed and retained for inspection by INS and the Department of Labor. By meeting these requirements in "good faith" an employer can establish an affirmative defense that he or she has not hired, recruited, or referred an undocumented alien in violation of the legislation.

What remains unknown is the efficacy of relying on existing forms of identification to verify employment eligibility during the initial three years after passage of this legislation. Certainly the issues raised by this Subcommittee attest to security problems in identity document issuance as well as usage. Further, the Subcommittee staff was told repeatedly by INS investigators that manufacturers and vendors have increased sales of "ID packets" which are produced so that customers will have all of the counterfeit documents needed to comply with the employment verification procedures of this not-yet enacted legislation.

While both the Senate-passed bill, S. 2222, and the House-reported bill, H.R. 6514, authorize the development of a more secure system of worker identification rather than mere reliance on existing identifiers, the future system is vaguely defined and its design remains unclear.[153] Senator Chiles broached this subject with Newton Van Drunen, the convicted document forger, when he asked for recomenmdations about the design of a secure identity system:

> Senator CHILES. One of the provisions in an immediate bill that is going to be presented to the Senate, is a requirement of having some kind of identifier for people seeking a job.
>
> As you know, today, when you apply for a job, the law requires that you have a social security number and you have to give that number to your employer. A number of our citizens are concerned about this new bill. They don't want us to go to an identifying number for everyone in this country. However, many of us feel we should require that the number you give when you apply for a job should be on a non-counterfeitable card with some kind of identifier. Then you could require an employer to run a check to determine if the person has a valid card, in which case, of course, you could tell whether that person is entitled to work in this country or not . . . Let me ask you this: Assuming that you had this card, how would you set up a system so that an employer would be able to take that card and quickly obtain information as to whether that was the valid holder of the card?
>
> In other words, what kind of process would you set up to allow the employer to make a speedy check?
>
> Mr. VAN DRUNEN. There are various ways that can be accomplished, Senator, although I am going to assume the technology is beyond the present discussion.
>
> Senator CHILES. Right.

[153] H.R. 6514 specifically states that nothing in the legislation "shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards."

Mr. VAN DRUNEN. I was working on a decoder that would be a portable unit. It could be carried anywhere and a special model of it could be given or sold to a potential employer which would read only one section of the card which meant that if it carried information that he was not entitled to have that it would be automatically blocked from him by the decoder.

Senator CHILES. What would the cost of that be?

Mr. VAN DRUNEN. I believe the unit could be produced for under $1,000.

Senator CHILES. Then, assuming that every employer might not want to have to spend $1,000, decoders like that could be put into the local or State employment office. Then a slip could be issued saying that the bearer of this card was in fact entitled to a job.

Mr. VAN DRUNEN. Yes, Senator, that is true, very easily. Or a very limited model of the decoder could be made that would confirm or deny the validity.[154]

In considering and implementing any changes to the worker identification system, the Administration should bear in mind all of the weaknesses of the existing identifiers as pointed out by PSI as well as past fiascos associated with the development of federal documents such as the INS ADIT (I-551) card.

VI. FINDINGS AND RECOMMENDATIONS

1. The Subcommittee finds that document-releated fraud is a major societal problem and is growing. It is particularly prevalent in the issuance and use of the social security card and number. Funds lost through this type of fraud are depleting an already overwhelming system. The Subcommittee agrees with the Inspector General of the Department of Health and Human Services in his assessment that SSA does a woefully inadequate job of insuring that social security cards and benefits are properly issued; SSA has no national fraud awareness or effective central office guidance on how to control fraud misuse; and SSA has not adequately deterred the use of non-working social security numbers by aliens who are not authorized to work in the U.S.

The Subcommittee therefore recommends that SSA develop tighter procedures to verify identity and eligibility before issuing cards and benefits.

The Subcommittee further recommends that SSA make a clear and unequivical commitment to share data and work with law enforcement and benefit agencies which are engaged in efforts to identify and eliminate persons who are abusing federal and state benefit programs.

The Subcommittee also recommends that SSA greatly increase efforts to work with the Immigration and Naturalization Service to identify aliens who are abusing SSA programs and illegally obtaining cards and numbers.

Finally, the Subcommittee recommends that SSA increase its efforts to halt the payment of social security benefits to aliens who have been deported from the U.S. In a time when the status of social security

[154] Hearing, pp. 22 and 23.

funds is becoming increasingly critical, it is vital for SSA to expand efforts to halt the improper depletion of these funds.

2. The Subcommittee finds that federal law enforcement, and document-issuing and benefit-disbursing agencies, have done an abysmal job of coordinating their efforts to eliminate document fraud from federal benefit programs. Specifically, information concerning document fraud, identification document weaknesses and agency records relating to identity and eligibility of benefit applicants has not been shared among these agencies. This has resulted in the loss of millions of dollars in benefit funds paid to ineligible applicants who have used false federal identification documents to penetrate programs. It has also resulted in the substantial loss of federal tax dollars when benefit agencies conduct duplicative or inadequate investigations to determine an applicant's identity and eligibility.

The Subcommittee recommends that the Department of Health and Human Services and the Department of Agriculture develop a system to share information relating to the identification and eligibility of federal benefit applicants. This system should take into account the legitimate privacy rights of the applicants but emphasize the responsibility of the government to ensure that federal assistance funds are disbursed only to properly identified and eligible applicants.

The Subcommittee further recommends that the Department of Health and Human Services and the Department of Agriculture should enter into a cooperative effort with the Department of Justice, and the law enforcement agencies of the Department of the Treasury (IRS, Secret Service, BATF, Customs), to routinely share information about individuals who engage in fraud relating to identity documents. The Subcommittee believes that such an effort will lead to an increase in the number of identity document-related criminal cases detected in benefit programs as well as cases of smuggling, immigration, and terrorism.

3. The Subcommittee finds that the document-issuing processes of the Department of State, the Immigration and Naturalization Service, the Social Security Administration, and the individual states have been totally uncoordinated. Each agency and the states issue documents which are relied upon by other agencies in establishing identity and eligibility for federal and state documents and benefits. However, little effort has been made within agencies and states to identify the uses that are made of federal identity documents, or to verify the legitimacy of the documents in an attempt to eliminate from benefit programs persons who fraudulently use the documents.

The Subcommittee therefore recommends that each document-issuing agency should undertake a project designed to delineate just how its documents eventually come to be used in federal and state benefit programs. A system must be devised to assure the proper usage of identity documents throughout the government and in the states.

4. The Subcommittee finds that the Department of State's current implementation of Section 212(a)(19) of the Immigration and Nationality Act enables persons to engage in wholesale misrepresentations relating to visa fraud without being excluded from entering the U.S. The Subcommittee finds that a person who misrepresents information to a consular officer in order to enter the U.S. is likely to make

further misrepresentations in order to fraudulently obtain federal benefits.

The Subcommittee therefore recommends that the Departments of Justice and State establish and coordinate a policy to implement Section 212(a)(19) of the Immigration and Naturalization Act concerning aliens who seek to fraudulently enter the U.S. Particular attention should be given to those persons who have made further misrepresentations in the U.S. in order to obtain additional federal or state identity documents, or federal and state financial benefits. The Subcommittee also recommens that the Attorney General issue a new Immigration and Naturalization decision relating to visa fraud under Section 212(a)(19) of the Immigration and Nationality Act. It is the Subcommittee's belief that current guidance on this matter is out of date, has been misinterpreted by the State Department, does not adequately acocunt for the current state of visa fraud, and does not consider the impact of such fraud on domestic identification and assistance programs.

5. The Subcommittee finds that the Department of State has not made an adequate committment to identify and eliminate the full extent of fraudulent issuance and use of passports and visas. This lack of commitment has enabled persons to obtain fraudulent State Department docuemnts, to use these documents to enter the U.S., and to obtain other federally-issued identification documents without the likelihood of detection. The Subcommittee finds that inadequate resources have been devoted at the time of document issuance to ensure that only those who are truly entitled to passports and visas receive them. The current efforts of the Office of Security and the Office of Inspector General are disjointed and inadequate to properly address passport and visa fraud within the State Department. The Subcommittee finds that the present system, whereby Inspector General investigations are actually under the operational authority of the Office of Security, presents the possibility of a conflict of interest with the statutory purpose of the Office of Inspector General. Document fraud responsibility should be assigned to either the Office of Inspector General or the Office of Security. Whatever decision is made, that Office should be provided with sufficient authority and resources to successfully accomplish the task.

The Subcommittee therefore recommends that the State Department improve its law enforcement capabilities as follows:

> Provide professional training on document-related fraud and other criminal matters for its investigators and agents,
>
> Engage in a professional exchange of information with federal and state law enforcement agencies.
>
> Provide agents with arrest authority as well as weapons authority.

The Subcommittee further recomends that *all* passport and visa fraud allegations detected by officials within the Bureau of Consular Affairs be transmitted directly to a law enforcement organization within the Department. That organization should then decide whether the investigation is to be conducted by the State Department or is to be referred to another agency. The law enforcement office must then

monitor all such cases and analyze any appropriate data from these cases.

The Subcommittee also recommends that the State Department actively seek the cooperation of the Secret Service in conducting investigations relating to State Department document fraud. The Secret Service is uniquely qualified to provide the investigative and forensic skills which are necessary in such investigations.

Finally, the Subcommittee recommends that the State Department work closely with INS to assure the efficient development and implementation of computer-assisted immigration documents. The current system, whereby INS and the State Department simultaneously developed machine-readable immigration documents which are incompatible with each other's systems is duplicative, wasteful and inefficient.

6. The Subcommittee finds that recent cooperative efforts between the Immigration and Naturalization Service and the Offices of Inspector General at the Departments of Health and Human Services, the Department of Education and the State of Illinois have been most productive in identifying false document schemes in certain benefit programs. The Subcommittee also finds that recent cooperative efforts between the Immigration and Naturalization Service and the Social Security Administration have enabled these agencies increasingly to identify illegal activity in their programs.

The Subcommittee therefore recommends that these agencies should continue to expand such cooperative efforts by including the Inspectors General of the State Department and the Agriculture Department and by concentrating on such areas as training and investigations in order to reduce document fraud.

7. The Subcommittee finds that the False Identification Crime Act of 1982, P.L. 97–398, will provide prosecutors with a much-needed direct tool with which to combat falsification of identification documents used in a variety of criminal activities.

The Subcommittee recommends that P.L. 97–398 be vigorously enforced by federal law enforcement agencies as well as by the Inspectors General of benefit-disbursing agencies. The Subcommittee further recommends that the Secret Service, with its investigative and forensic expertise, share concurrent jurisdiction with benefit-disbursing and document-issuing agencies for the investigation of false identification crimes.

The following Senators, who were Members of the Permanent Subcommittee on Investigations at the time of the hearings, have approved this report.

William V. Roth, Jr.	Thad Cochran
Warren B. Rudman	Lawton Chiles
Sam Nunn	John Glenn
Charles H. Percy	Jim Sasser
William S. Cohen	Jeff Bingaman

The Members of the Committee on Governmental Affairs, except those who were members of the Senate Permanent Subcommittee on Investigations at the time of the hearings, did not sit in on the hearings on which the above report was prepared. Under these circumstances, they have taken no part in the preparation and submission of the report except to authorize its filing as a report made by the subcommittee.

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